United States Court of Appeals

for the

District of Columbia Circuit

TRANSCRIPT OF RECORD

JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

423

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),

Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,

Respondents.

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United States Court of Appeals
For the
District of Columbia Circuit
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For The District of Columbia Circuit

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JOINT APPENDIX

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JOINT APPENDIX

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

September Term, 1960

No. 16,041

Harry Lee Sparks and Rex Wanda Sparks
(Presently doing business as H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria).

Petitioners,

v.

Ezra Taft Benson, as Secretary of Agriculture, and
United States of America,

Respondents.

Before: Wilbur K. Miller, Circuit Judge, in Chambers.

ORDER

Counsel for the parties having submitted their stipulation dated January 17, 1961, pursuant to Rule 38(k) of the General Rules of this Court, and the stipulation having been considered, the stipulation is hereby approved, and it is

ORDERED that the stipulation dated January 17, 1961, shall control further proceedings in this case, and that the stipulation and this order shall be printed in the joint appendix.

Dated: January 19, 1961

[Filed January 19, 1961]

STIPULATION WITH RESPECT TO THE ISSUES, THE PARTS OF THE RECORD TO BE REPRODUCED IN THE JOINT APPENDIX, AND THE DATES FOR FILING THE JOINT APPENDIX AND THE BRIEFS

For the purpose of this proceeding, it is stipulated and agreed by the parties as follows:

FIRST.

The issues for resolution by the Court are, as set forth by the petitioners in their petition for review, whether:

1. Petitioners' registrations under the Packers and Stockyards Act, 1921, as amended, to do business on the various posted stockyards throughout the United States, are valuable and substantial property rights. The action of the Secretary herein complained of deprives petitioners of these valuable and substantial property rights without due process of law.

2. The Secretary of Agriculture has acted in excess of his jurisdiction and authority, in respect of the matters and things alleged to have occurred at points other than posted stockyards, as that term is defined in the Act as of the time of the alleged occurrences.

3. Petitioners were denied the full and fair hearing required by the Act, the Administrative Procedure Act, 5 U.S.C. 1001, et seq., and the Fifth Amendment to the Constitution of the United States, in that, among other things, the Secretary acted on a record which is void of any evidence, much less substantial evidence.

4. Petitioners were denied the opportunity to achieve compliance, as provided for and required by Section 9(b) of the Administrative Procedure Act, supra, 5 U.S.C. 1008(b), notwithstanding that petitioners many times stated their willingness and desire to comply with the Act and rules and regulations, as such were interpreted and applied by the Secretary.

5. Petitioners have been denied a full and fair hearing in that, among other things, a government witness was permitted to testify, over the objection of petitioners, to the writing contained in certain books and records, notwithstanding that such books and records were not in the hearing room and not available for either examination or cross-examination by petitioners.

6. Petitioners have been denied a full and fair hearing and have suffered an invasion of their constitutional rights in that, among other things, the investigation herein which produced all of the evidence adduced against the petitioners, and upon which the Secretary took the action herein complained of, was illegal, improper, and in violation of

an agreement and understanding reached by and between the parties. Moreover, such search and seizure was conducted in an area in which the Secretary had no jurisdiction. As a result, the action of the Secretary herein complained of is in violation of Section 1008(a) of the Administrative Procedure Act, supra.

7. Petitioners have been denied a full and fair hearing in that, among other things, the Secretary, in taking the action complained of, accepted certain weight figures tendered by the government as establishing the buy weight of certain hogs, but refused to accept identical evidence tendered by the petitioners as to the sell weight of such hogs. This action of the Secretary was arbitrary, unreasonable and capricious.

8. The Secretary erred in dismissing the Petition for Rehearing filed by the Petitioners on September 19, 1960 (Exhibit G), in that, among other things, (1) finding that "there is no way of separating the hogs originating at posted stockyards from the hogs originating at unposted points to ascertain at what weights the hogs from posted yards were sold," (2) finding that petitioners adduced no probative evidence of reweighing of the hogs involved, and (3) in finding that the Secretary of Agriculture has not approved or authorized the use of summary or memorandum scale tickets. (Order Dismissing Petition for Rehearing, etc., Exhibit F).

9. The Secretary erred in refusing to reconsider his decision in the light of the petitioners' allegation and offer to prove that petitioners' operations subsequent to September 2, 1958, when the Packers & Stockyards Act, 1921, was amended (Public Law 85-909, 85th Cong., 72 Stat. 1749, et seq.), so as to govern other than posted stockyards, on a comparable gross business, disclosed an actual gain in weight in the sale and handling of hogs - proof that the Secretary's findings were clearly erroneous, arbitrary, unreasonable and capricious, and that such findings as were made were contrary to the evidence of record.

10. The Secretary further erred in receiving in evidence and grounding his decision on a disputed so-called affidavit. Such affidavit was not competent and its receipt in evidence, and the action taken thereon, was clearly error.

11. The Secretary further erred in finding that action taken by petitioners pursuant to the directions and instructions of the Bureau of Animal Industry, constituted wilful violations of the Act and rules and regulations thereunder.

12. The Secretary further erred in finding as wilful violations the change in head count of hogs when the evidence clearly showed that such changes were accepted practices, sanctioned by custom and usage on the St. Louis National Stockyards, National Stockyards, Illinois, at which such violations were alleged to have occurred.

13. The Secretary further erred in his interpretation and application of the rules and regulations governing the making of scale tickets in connection with the sale of hogs at the St. Louis National Stockyards in finding that the so-called "switching" of hogs was in wilful violation of such rules and regulations and the Act.

14. The Secretary further erred in finding the alleged violations to be "wilful." In truth and fact no wilfulness was present, and no evidence was adduced to prove that such were wilful.

SECOND.

The following parts of the record in this proceeding are to be reproduced in the Joint Appendix:

1. The petitioners designate for inclusion in the Joint Appendix:

(a) The order of inquiry and notice of hearing filed in the administrative proceeding.

(b) The answer to the order of inquiry and notice of hearing.

(c) The recommended decision by the Hearing Examiner.

(d) The exceptions filed by the petitioners - i.e., the respondents in the administrative proceeding - to the recommended decision by the Hearing Examiner.

(e) The decision of the Judicial Officer on July 29, 1960.

(f) The petition - filed by the petitioners, i.e., the respondents in the administrative proceeding - pursuant to section 202.21(a)(3) of the rules of practice.

(g) The ruling of the Judicial Officer on September 26, 1960, relative to the petition pursuant to section 202.21(a)(3) of the rules of practice.

(h) The order of the Judicial Officer staying the suspension of the petitioners' registration pending final decision on judicial review.

(i) The petition for review filed in this Court on October 19, 1960, excluding, however, the duplicative exhibits to the petition.

2. The Joint Appendix is to include the parts of the transcript of the testimony in the administrative proceeding which are set forth in Exhibit A attached hereto. The petitioners are designating for inclusion in the Joint Appendix the material in Exhibit A which is included in brackets, and the respondents on this appeal are designating for inclusion in the Joint Appendix the material in Exhibit A which is not included in brackets.

3. The Joint Appendix is to include, on behalf of the petitioners, all of the exhibits, viz., Respondent's Nos. 1 - 18, introduced in evidence by the petitioners in the administrative proceeding, i.e., the respondents in the administrative proceeding. The respondents in this Court are designating for inclusion in the Joint Appendix the following exhibits which they introduced in evidence in the administrative proceeding: Complainant's Exhibits 1 to 20, inclusive; 42 to 75, inclusive; and 79 to 80, inclusive.

Many of the exhibits consist of elaborate statistical charts and other papers which are unusually difficult to reproduce in print, and it is agreed and stipulated that all of the petitioners' exhibits may be photostated in lieu of printing in the Joint Appendix, and that the exhibits designated by the respondents for inclusion in the Joint Appendix are to be reproduced as follows: Exhibits 2 to 6, inclusive, are to be printed, but the remaining exhibits on behalf of the respondents are to be photostated.

THIRD.

The Joint Appendix, including the material to be photostated in lieu of printing, is to be prepared and filed with the Clerk of the Court on or before the date the respondents' reply brief is due to be filed. The petitioners are to pay for the printing and photostating of the material which they have designated for inclusion in the Joint Appendix. The respondents are to pay for the printing and photostating of the material which they have designated for inclusion in the Joint Appendix.

The petitioners' printed brief is to be filed on or before February 7, 1961, and the respondents' reply brief is to be filed within thirty days thereafter. The petitioners may file a reply brief within fifteen days after the filing of the respondents' brief.

FOURTH.

That either party may submit a typewritten brief on the due date thereof, provided that the printed brief shall be filed within ten days thereafter.

/s/ Ben Ivan Melnicoff
Attorney for the Petitioners

/s/ Martin Hollander
U. S. Department of Justice

/s/ Neil Brooks
Assistant General Counsel
U. S. Department of Agriculture

Attorneys for the Respondents

EXHIBIT A

* * * *

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Order of Inquiry and Notice of Hearing

There is reason to believe that Harry Lee Sparks and Rex Wanda Sparks (presently d/b/a H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria) have wilfully violated the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the "act", and the regulations issued thereunder (9 CFR 201.1 et seq.), hereinafter referred to as the "regulations", and, therefore, this order of inquiry and notice of hearing is issued alleging the following:

I

The St. Louis National Stock Yards, National Stockyards, Illinois, the Bushnell Stock Yards, Bushnell, Illinois, the Mississippi Valley Stock Yards, St. Louis, Missouri, the Springfield Stock Yards, Springfield, Illinois, and the Union Stock Yards, Peoria, Illinois, are now and at all times mentioned herein were posted stockyards subject to the provisions of the act.

II

Harry Lee Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks and Company, are registered with the Secretary of Agriculture under Registration No. 13412 as a dealer to buy and sell swine for their own account at the St. Louis National Stock Yards, National Stockyards, Illinois, the Mississippi Valley Stock Yards, St. Louis, Missouri, and the Union Stock Yards, Peoria, Illinois, and at all times mentioned herein respondents were so registered. H. L. Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks & Company of Bushnell, are registered with the Secretary of Agriculture under Registration No. 13412 as a market agency to buy cattle, sheep and swine on a commission basis and as a dealer to buy and sell cattle, sheep and swine for their own account, at the Bushnell Stock Yards, Bushnell, Illinois, and at all times mentioned herein respondents were so registered. H. L. Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks & Company of Peoria, are registered with the Secretary of Agriculture under Registration No. 13412 as a market agency to buy swine on a commission basis and as a dealer to buy and sell swine for their own account, at the Union Stock Yards, Peoria, Illinois, and at all times mentioned herein respondents were so registered. At all times mentioned herein prior to November 26, 1956, Harry Lee Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks and Company of Springfield, Illinois, were registered with the Secretary of Agriculture under Registration No. 13412 as a market agency to buy swine on a commission basis and as a dealer to buy and sell swine for their own account, at the Springfield

Stock Yards, Springfield, Illinois.

III

Midwest Order Buyers is a partnership composed of Harry Lee Sparks and Rex Wanda Sparks with its principal office at Chapin, Illinois. Midwest Order Buyers is controlled by respondents and is used by respondents to carry on certain of the dealer activities of respondents. Among other things, Midwest Order Buyers is used by respondents to purchase hogs to fill orders received by respondents from packers and to bill said packers for certain hogs sold to them by respondents.

IV

Respondents, in the transactions listed below and at divers other times during the period from December 1, 1955, through January 31, 1957, purchased hogs at various stockyards subject to the provisions of the act and knowingly and wilfully sold such hogs, together with hogs purchased by respondents through Midwest Order Buyers, to various packers at false and incorrect weights which were greatly in excess of the true and correct weights of such hogs.

Date	Sold To	No. Hogs	Purchase Weight (Pounds)	Invoice Weight (Pounds)	Weight Added (Pounds)
12/1/55	Swift & Co.	488	144,245	146,005	1,760
12/10/55	Swift & Co.	835	214,080	216,390	2,310
12/12/55	Swift & Co.	183	55,860	57,305	1,445
12/14/55	Val Decker	404	89,340	90,340	1,000
12/17/55	Swift & Co.	271	103,705	105,615	1,910
12/19/55	Home Pkg. Co.	595	145,625	147,340	1,715
12/21/55	Kingan	236	59,105	60,300	1,195
12/26/55	Swift & Co.	403	112,205	113,800	1,595
12/27/55	Home Pkg. Co.	256	56,990	57,490	500
12/28/55	Swift & Co.	425	114,900	116,240	1,340
1/10/56	Home Pkg. Co.	663	142,755	144,710	1,955
1/21/56	Swift & Co.	581	167,490	169,490	2,000
1/27/56) 1/28/56)	Swift & Co.	861	212,965	215,525	2,560
2/3/56	St. Louis Ind.	135	53,750	55,300	1,550
2/11/56	St. Louis Ind.	130	54,250	55,430	1,180
2/13/56	Home Pkg. Co.	688	144,310	147,740	3,430
2/16/56	Home Pkg. Co.	643	137,605	140,195	2,590
3/7/56	Hunter Pkg. Co.	639	136,135	137,950	1,815
3/12/56	Home Pkg. Co.	569	108,460	110,360	1,900
3/16/56	John Morrell	326	103,370	105,085	1,715
3/20/56	John Morrell	600	143,700	145,070	1,270
3/20/56	Home Pkg. Co.	440	82,215	83,515	1,300
3/27/56	Swift & Co.	351	80,870	81,870	1,000
3/29/56	St. Louis Ind.	551	141,440	143,510	2,070
4/9/56	Home Pkg. Co.	510	104,585	106,085	1,500
4/16/56	Swift & Co.	343	81,555	82,735	1,180
4/17/56	Home Pkg. Co.	576	112,625	114,425	1,800
4/28/56	Home Pkg. Co.	396	74,355	75,905	1,550
5/1/56	Home Pkg. Co.	285	53,330	54,560	1,230
5/9/56	Home Pkg. Co.	530	107,315	108,815	1,500
5/11/56	Swift & Co.	194	79,365	80,365	1,000
5/22/56	Swift & Co.	400	144,260	145,460	1,200
6/4/56	J. Morrell	332	134,020	135,365	1,345
6/12/56	Kingan Pkg. Co.	734	196,825	198,325	1,500
6/22/56	Oscar Mayer	165	55,030	55,490	460
7/21/56	Kingan	565	135,985	136,985	1,000
8/13/56	Hunter Pkg. Co.	662	138,750	139,750	1,000
8/22/56	Hunter Pkg. Co.	648	142,890	143,955	1,065
9/6/56	Hunter Pkg. Co.	869	194,100	196,670	2,570
9/7/56	Heil Pkg. Co.	744	168,200	169,700	1,500
9/15/56	Kingan & Co.	994	220,290	222,290	2,000
10/4/56	Swift & Co.	96	32,620	33,620	1,000
10/19/56	Heil Pkg. Co.	353	80,325	81,400	1,075
1/5/57	Swift & Co.	682	217,920	219,420	1,500
1/31/57	St. Louis Ind.	256	57,000	57,950	950

V

In connection with the transactions referred to in paragraph IV hereof, respondents, operating through Midwest Order Buyers, issued invoices to the packers showing such false and incorrect weights and received payments from said packers based upon said false and incorrect weights. Copies of such false and incorrect invoices were made a part of the accounts and records of said packers, which packers at all times mentioned herein were subject to the provisions of the act.

VI

On September 7, 1956, respondents purchased 119 hogs at the Union Stock Yards, Peoria, Illinois. On the same date respondents, through Midwest Order Buyers, purchased 625 hogs at several buying stations. The total purchase weight of the 744 hogs was 168,200 pounds. On September 7, 1956, respondents sold said 744 hogs to Heil Packing Company, St. Louis, Missouri, and issued an invoice to the company representing the total weight of said hogs at the time they were sold to the company as 169,700. Said hogs were not weighed at the time of their sale to Heil Packing Company and the invoice weight exceeded the purchase weight of said hogs by 1,500 pounds. In connection with such sale transaction, respondents, through Midwest Order Buyers, delivered to Heil Packing Company six scale tickets in support of the total weight figure entered upon the invoice. Said six scale tickets were false and fictitious in that they represented that a total of 744 hogs had been weighed at a total weight of 169,700 pounds at the time they were sold to Heil Packing Company, whereas, the total weight of the hogs was substantially less than 169,700 pounds at the time they were sold to said company, and, in fact, said 744 hogs were not weighed in connection with the printing of the scale tickets. Said scale tickets were printed by respondents upon a scale owned by respondents at Chapin, Illinois, notwithstanding that said 744 hogs had not been purchased at, or shipped from, Chapin, Illinois, and no hogs were upon the scale at the time said scale tickets were printed. Copies of the false and fictititous scale tickets were made a part of the accounts and records of the Heil Packing

Company, a packer subject to the provisions of the act.

Other instances of the type described above in which respondents sold hogs at false and incorrect weights and issued false and fictitious scale tickets in connection therewith, copies of which scale tickets were made a part of the accounts and records of the purchasers, are as follows:

Date	Sold To	No. Hogs	Weight Shown On Invoice & Scale Tickets (Pounds)	Purchase Weight (Pounds)	Weight Added (Pounds)
3/7/56	Hunter Pkg. Co.	639	137,950	136,135	1,815
8/13/56	Hunter Pkg. Co.	662	139,750	138,750	1,000
8/22/56	Hunter Pkg. Co.	648	143,955	142,890	1,065
8/29/56	Hunter Pkg. Co.	747	165,980	165,105	875
9/6/56	Hunter Pkg. Co.	869	196,670	194,100	2,570
10/19/56	Heil Pkg. Co.	353	81,400	80,325	1,075

VII

On September 11, 1956, respondents sold certain hogs at the St. Louis National Stock Yards, National Stockyards, Illinois to Krey Packing Company, St. Louis, Missouri. The hogs had been weighed to respondents in three separate drafts of 75 hogs, 87 hogs and 63 hogs. Following the weighing the hogs, each draft was penned in a separate pen assigned to respondents at the stockyard. While the hogs were being held in said pens, respondents substituted in each lot of hogs one hog which had not been weighed for one of the hogs which had been weighed. Thereafter, the three lots of hogs were delivered to the packing company without re-weighing, and the company was billed by respondents upon the basis of the weights obtained at the time the hogs were weighed to respondents.

Similar transactions in which respondents substituted hogs which had not been weighed for hogs in drafts which had been weighed and billed the purchaser on the basis of weights obtained prior to the substitution are as follows:

Date	No. Hogs	Weight	No. Hogs Substituted	Sold To
9/14/56	6	750	Exact no. unknown	Figge & Hutwelker Co.
	6	705	"	"
	46	8755	"	"
9/13/56	168	25430	5	Charles Miller & Co.
10/10/56	85	15175	5	Krey Packing Company

VIII

Respondents, at the St. Louis National Stock Yards, National Stockyards, Illinois, on or about the dates and in connection with the transactions listed below, planted their own hogs with certain market agencies at the stockyard for sale on a commission basis. Said hogs were planted by respondents with the market agencies under false and incorrect names and, in connection with the sale of such hogs, respondents caused false and incorrect names to be entered on the scale tickets as the names of the owners of the hogs. Copies of such false and incorrect scale tickets were made part of the accounts and records of respondents, the market agencies, and the St. Louis National Stock Yards corporation:

Date	Market Agency	Sold To	No. Hogs	Name Shown on Scale Ticket
9/2/55	Underwood	Kenney	11	Day
9/2/55	Underwood	Kenney	1	Clark
9/2/55	Wootten F.D.	S. & Co. #4	15	Starks
9/2/55	Wootten F.D.	S. & Co. #4	1	Miller
10/20/55	Marshall	S. & Co. #4	6	Parks
10/3/55	Cassidy	S. & Co. #4	12	Strong
10/3/55	Cassidy	S. & Co. #4	1	Parks

IX

Respondents, in the transactions listed below and at divers other times during the period from January 28, 1954 through June 17, 1954, caused entries to be made on freight bills showing the name of the shipper of certain hogs as "L. Conrad," "W. Kenney" or "A. Schaeffer", whereas the respondents were the owners and shippers of the hogs. Copies of such false and incorrect freight bills were made a part of the accounts and records of the St. Louis National Stock Yards corporation.

Date of Freight Bill	No. Hogs	Shipped To	Name of Shipper Shown on Freight Bill
1/28/54	120	Clougherty Bros. Pkg.	L. Conrad
3/12/54	118	Coast Pkg.	W. Kenney
3/26/54	121	Coast Pkg.	A. Schaeffer
4/15/54	122	Coast Pkg.	L. Conrad
6/17/54	115	Coast Pkg.	L. Conrad

X

Respondents, in the transactions described below and at divers other times during the period from July 15, 1955 to December 11, 1956, in connection with the sale of hogs by respondents to certain purchasers, charged said purchasers a service charge or a buying commission, notwithstanding that said hogs had not been purchased by respondents for said purchasers on a commission basis and were not sold by respondents to said purchasers at purchase weights and prices.

Date	No. Hogs	Purchaser	Charge
7/15/55	134	Merkel, Inc.	$ 15
11/12/55	212	Avera Packing Co.	15
12/6/55	158	J.E. Harrell & Son, Inc.	15
11/15/56	388	P.D. Gawltney, Jr. & Co.	60
12/11/56	123	C.E. Vissman Co.	20

XI

Respondents, during the period from January 6, 1954, through June 5, 1956, in connection with sales of hogs by respondents at the St. Louis National Stock Yards, National Stockyards, Illinois, made alterations in copies of scale tickets retained in respondents' records by changing the head count shown on such copies of scale tickets and making other entries which were different from, or in addition to, the entries appearing on copies of scale tickets retained as part of the accounts and records of the St. Louis National Stock Yards corporation, owner and operator of said stockyard. Such altered scale tickets were used by respondents as a basis for billing the purchasers of the hogs.

(a) In the instances referred to below, respondents changed the head count on the copies of the scale tickets retained in their records:

Scale Ticket Number	Date	No. of Hogs as Shown On Stockyard Company Copy of Scale Ticket	No. of Hogs as Shown on Copy of Scale Ticket in Respondents' Records
515886	10/25/54	144	138
853819	7/28/55	155	154
856389	11/10/55	25	26
45083	4/24/56	59	60

(b) In the transactions listed below, and at divers other times during the period from January 6, 1954, through June 5, 1956, respondents made entries in copies of scale tickets retained in their records showing numbers and weights of hogs, which numbers and weights were deducted from, or added to, the head counts and weights of hogs appearing on such copies of the scale tickets. Said entries were false and misleading in that they represented that certain numbers of hogs had been weighed at certain weights at the stockyard, whereas there were no weighing transactions to support the entries made by respondents on such copies of scale tickets.

Date	Scale Ticket No.	No. of Hogs and Weight As Shown on Stockyard Company Copy of Scale Ticket		No. of Hogs and Weight As Shown on Copy of Scale Ticket in Respondents' Records	
1/6/54	330605	37	3615	37	3615
		60	9040	60	9040
				3 off	390
				57	8650
6/8/54	406772	121	27945	121	27945
				25 off	6250
				96	21695
9/1/54	569248	93	16030	93	16030
				30 off	4960
				63	11070
10/28/54	668231	24	12360	24	12360
				7 off	3110
				17	9250
1/19/55	761302	83	9255	83	9255
				3 off	300
				80	8955
7/13/55	880822	27	2875	27	2875
				15 off	1615
				12	1260
10/14/55	684896	35	6045	35	6045
				5 off	710
				30	5335
1/16/56	958067	44	5320	44	5320
				5 off	500
				39	4820
6/5/56	95067	12	1670	12	1670
				1 off	50
				11	1620

Date	Scale Ticket No.	No. of Hogs and Weight As Shown on Stockyard Company Copy of Scale Ticket		No. of Hogs and Weight As Shown on Copy of Scale Ticket in Respondents' Records	
7/9/54	512432	20	3955	20	3955
				1	250
				21	4205
11/2/54	588615	6	530	6	530
		1	390	1	390
				1	500
11/22/54	682085	24	6210	24	6210
		1	670	1	670
				1	550

XII

On October 15, 1951 an order was entered by the Judicial Officer of the Department of Agriculture in a proceeding entitled In re H. L. Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks and Company, P. & S. Docket No. 1999, requiring respondents to keep such accounts, records and memoranda as will fully and correctly disclose all transactions involved in their business and to cease and desist from engaging in the unfair, unjustly discriminatory and deceptive practices and devices described in the findings of fact of said order. Finding of fact 3 of said order stated:

> "3. Respondents, at divers times and in numerous transactions during the period from February 28 to August 31, 1950, altered scale tickets issued in connection with purchases by the respondents of hogs at the stockyard on a dealer basis by changing the head count or the date, or both, shown thereon; resold such hogs to various customers; and used such altered scale tickets as the basis for bills or invoices furnished the customers for such hogs."

XIII

By reason of the facts alleged in paragraphs IV, VII, and X hereof, respondents have wilfully violated section 312(a) of the act (7 U.S.C. 213(a)).

By reason of the facts alleged in paragraphs V and VI hereof, respondents have wilfully violated section 312(a) of the act, section 201.55 of the regulations (9 CFR 201.55), and section 10 of the Federal Trade

Commission Act (15 U.S.C. 50), which section is incorporated in and made a part of the act by virtue of the provisions of section 402 of the act (7 U.S.C. 222).

By reason of the facts alleged in paragraphs VIII, XI and XII hereof, respondents have wilfully violated sections 312(a) and 401 (7 U.S.C. 221) of the act and section 10 of the Federal Trade Commission Act.

By reason of the facts alleged in paragraph IX hereof, respondents have wilfully violated section 10 of the Federal Trade Commission Act.

WHEREFORE, this notice and inquiry as to the truth of the matters hereinbefore alleged is instituted, and the Agricultural Marketing Service requests:

1. That unless the foregoing matters and things are admitted or satisfactorily explained in writing within 20 days from the receipt of this order of inquiry, this matter be set down for oral hearing in conformity with the rules of practice governing proceedings under the act.

2. That such order or orders be entered as are authorized by the act and warranted in the premises.

Done at Washington, D. C. this
10 day of October 1957.

/s/ David M. Pettus
Director, Livestock Division
Agricultural Marketing Service

ANSWER AND REQUEST FOR HEARING

Comes now Harry Lee Sparks and Rex Wanda Sparks (presently d/b/a H. L. Sparks and Company, H. L. Sparks & Company of Bushnell and H. L. Sparks & Company of Peoria), sometimes hereinafter referred to as the "Respondents", and answer the Order of Inquiry and Notice of Hearing ("Order and Notice"), alleging violation of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the "Act", and the regulations issued thereunder (9 CFR 201.1 et seq. and 9 CFR 202.1 et seq.), hereinafter referred to as the

"Regulations", and Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) as follows:

FIRST DEFENSE

Section 202.6(c) of the Regulations requires that the moving paper (the Order and Notice) shall "...state briefly and clearly the allegations of fact which constitute a basis for the proceeding and shall specify with particularity the matters or things in issue..." Contrary to this requirement, the moving paper rests upon innuendo, implication and deduction, from which respondents, at their peril, must guess and conjecture as to the infractions alleged. Respondents' motion for a bill of particulars, and for an oral argument thereon, have been denied. In the circumstances, respondents have no alternative but to respond to the moving paper in the light of their understanding.

Further answering, respondents aver that the Order and Notice herein does not comply with Section 5(a)(3) of the Administrative Procedure Act, (5 U.S.C. 1001, et seq.) which requires, among other things, that the respondents "shall be timely informed of ... (3) the matters of fact and law asserted."

Accordingly, respondents respectfully move and answer that the Order and Notice be stricken and that this proceeding, so initiated, be dismissed.

SECOND DEFENSE

The Order and Notice does not state a claim upon which the requested relief, or any relief can be granted, in that, among other things, the Notice and Order fails to comply with the provisions of Section 202.6(c) of the Regulations, Section 5(a)(3) of the Administrative Procedure Act, seeks to impose sanctions on matters and persons not subject to the Act and the Federal Trade Commission Act, and alleges as infractions, matters which in fact are not violations of either of the Acts cited or Regulations thereunder.

Further answering, respondents aver that this proceeding has been prematurely instituted, in that David M. Pettus, Director, Livestock Division, Agricultural Marketing Service, has failed to comply with the provisions of Section 9(b) of the Administrative Procedure Act, supra, which requires, as a condition precedent to the institution of an enforcement proceeding, that the person charged be given an opportunity to demonstrate or achieve compliance.

Further answering, respondents aver that the Order and Notice is defective, and fails to state a claim, in that it appears on its face to have been issued by a person other than the Secretary of Agriculture namely "David M. Pettus, Director, Livestock Division, Agricultural Marketing Service, notwithstanding that the Secretary of Agriculture is specifically and personally directed by the Congress in provisions of the Act and the Federal Trade Commission Act cited, to make the initial determination that a violation has been committed.

Therefore, respondents answer that the Order and Notice fail to state a claim upon which the relief requested, or any relief, can be granted, and move that the Order and Notice be dismissed.

THIRD DEFENSE

The Order and Notice, on its face, discloses that the matters and things alleged to be in issue, in fact do not fall within the purview of the Act, in that acts and actions of the respondents, if done at all, were not done on a "stockyard" as that term is defined and used in Title III, Section 301, et seq. of the Act, or by persons subject to the Act and the Regulations. Therefore, David M. Pettus, Director, Agricultural Marketing Service, "the Director", the Act, and the Federal Trade Commission, lack jurisdiction of both the persons and the subject matter, upon and over which jurisdiction is herein sought to be imposed.

Accordingly, respondents respectfully move and answer that the Order and Notice be dismissed.

FOURTH DEFENSE

The Order and Notice, on its face, discloses that the Director has failed to comply with the provisions of Section 9(b) of the Administrative Procedure Act (5 U.S.C. 1009(b)), which provides in part as follows:

> "... no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of

agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements ...".

Accordingly, respondents move and answer that the Order and Notice, be dismissed.

FIFTH DEFENSE

1. Respondents admit the allegations of Paragraph I.

2. Respondents admit the allegations of Paragraph II.

3. As to Paragraph III, respondents aver that this paragraph does not "state briefly and clearly the allegations of fact which constitute a basis for the proceeding", and does not "specify with particularity the matters or things in issue ...", that this paragraph is vague and indefinite, contrary to Section 5(a)(3) of the Administrative Procedure Act, and that the Director, the Agency and the Act, lack jurisdiction of both the persons and the subject matter as to whom and which sanctions are sought to be imposed. Accordingly, respondents move that this paragraph be dismissed.

Further answering, without waiving the foregoing answer and defenses, the respondents deny the allegations of Paragraph III.

4. As to Paragraph IV, respondents answer that this paragraph does not "state briefly and clearly the allegations of fact which constitute a basis for the proceeding", and does not "specify with particularity the matters or things in issue", that this paragraph is vague and indefinite, contrary to the provisions of Section 5(a)(3) of the Administrative Procedure Act, and that the Director, the Agency, and the Act lack jurisdiction of both the persons and the subject matter as to whom and which sanctions are sought to be imposed. Accordingly, respondents move that this paragraph be dismissed.

Further answering, without waiving the foregoing answer and defenses, respondents deny the allegations of Paragraph IV.

5. As to Paragraph V, respondents answer that this paragraph

does not "state briefly and clearly the allegations of fact which constitute a basis for the proceeding", and does not "specify with particularity the matters or things in issue", that this paragraph is vague and indefinite, contrary to the provisions of Section 5(a)(3) of the Administrative Procedure Act, and that the Director, the Agency, and the Act lack jurisdiction of both the persons and the subject matter as to whom and which sanctions are sought to be imposed. Accordingly, respondents move that this paragraph be dismissed. Further answering, without waiving the foregoing answer and defenses, respondents deny the allegations of Paragraph V.

6. As to Paragraph VI, respondents answer that this paragraph does not "state briefly and clearly the allegations of fact which constitute a basis for the Proceeding", and does not "specify with particularity the matters or things in issue", that this paragraph is vague and indefinite, contrary to the provisions of Section 5(a)(3) of the Administrative Procedure Act, and that the Director, the Agency, and the Act, lack jurisdiction of both the persons and the subject matter as to whom and which sanctions are sought to be imposed. Accordingly, respondents move that this paragraph be dismissed. Further answering, without waiving the foregoing answer and defenses, respondents deny the allegations of Paragraph VI.

7. Respondents move that this paragraph be stricken for the reason and on the ground, among others, that the Order and Notice, on its face, discloses that respondents have not been "accorded the opportunity to demonstrate or achieve compliance" as required by Section 9(b) of the Administrative Procedure Act, supra. Further answering, respondents move that this paragraph be dismissed for the reason and on the ground that the Order and Notice is vague and indefinite, in that, among other things, the number of hogs allegedly substituted, which is the gravaman of the violation alleged, is stated to be unknown. Respondents' request for particularization in this regard has been denied. In the circumstances, respondents cannot properly answer the allegation.

Further answering, respondents deny that their acts in connection with the transactions alleged constituted violations of the Act and

Regulations, and further answering, respondents deny each and every allegation in Paragraph VII.

8. As to Paragraph VIII, respondents move that this paragraph be stricken for the reason and on the ground, among others, that the Order and Notice, on its face, discloses that respondents had not been "accorded opportunity to demonstrate or achieve compliance" as required by Section 9(b) of the Administrative Procedure Act, supra.

Further answering, respondents deny each and every allegation in Paragraph VIII.

9. As to Paragraph IX, respondents move that this paragraph be stricken for the reason and on the ground, among others, that the Order and Notice, on its face, discloses that respondents have not been "accorded opportunity to demonstrate or achieve compliance", as required by Section 9(b) of the Administrative Procedure Act, supra.

Further answering, respondents deny that their acts, in connection with the transactions alleged in Paragraph IX, constitute violations of the Act and Regulations, and further answering, respondents deny each and every allegation of the Order and Notice.

10. As to Paragraph X, respondents move that this paragraph be stricken for the reason and on the ground, among others, that it appears on the face thereof, that the respondents have not been "accorded opportunity to demonstrate or achieve compliance", as required by Section 9(b) of the Administrative Procedure Act, supra.

Further answering, respondents deny that their acts in connection with the transaction alleged, constitute violations of the Act, and aver that the practice herein complained of, was and has been specifically approved by the agency.

Further answering, respondents deny each and every allegation in Paragraph X.

11. As to Paragraph XI, respondents move that this paragraph be stricken for the reason and on the ground, among others, that the Order and Notice, on its face, discloses that respondents have not been "accorded opportunity to demonstrate or achieve compliance", as required

by Section 9(b) of the Administrative Procedure Act, supra.

Further answering, respondents deny that their acts, in connection with the transactions alleged in Paragraph XI, constitute violations of the Act and Regulations, and Section 10 of the Federal Trade Commission Act, and further answering, respondents deny each and every allegation of the Order and Notice.

12. As to Paragraph XII, respondents move that this paragraph be stricken for the reason and on the ground, among others, as follows:

(a) this paragraph purports to recite the provisions of an Order previously entered in a different proceeding. The paraphrase is incomplete and therefore misleading;

(b) the quoted "Finding 3" in this paragraph is an isolated excerpt, out of context, of a prior Order, which pleads a legal conclusion.

Accordingly, respondents move that this paragraph be stricken.

Further answering, respondents admit that an Order was entered on October 15, 1951, but deny all conclusions drawn therefrom.

13. As to Paragraph XIII, respondents answer that this paragraph pleads legal conclusions and therefore should be stricken.

Further answering, respondents deny each and every allegation of Paragraph XIII.

WHEREFORE, having fully answered, respondents move that the Order and Notice be dismissed.

Respectfully submitted,
BEN IVAN MELNICOFF

REQUEST FOR HEARING

Respondents respectfully request a hearing herein.

Respectfully submitted,
BEN IVAN MELNICOFF

[Received Jan. 18, 1960]

RECOMMENDED DECISION

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), instituted by a complaint[1] filed on October 10, 1957, by the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture. The respondents, Harry Lee Sparks and Rex Wanda Sparks, were charged with selling hogs at false weights, issuing false invoices and scale tickets, substituting hogs in lots after weighing, and altering copies of scale tickets used in billing purchasers. Copies of the complaint and the rules of practice were served upon both respondents by registered mail on October 14, 1957, at National Stock Yards, Illinois.

After extensions of the time to answer and denial of respondents' motion for a bill of particulars, respondents filed an answer on January 9, 1958, stating various defenses, denying the allegations of violations in the complaint, and requesting an oral hearing.

A hearing was set for March 19, 1958, in Washington, D.C., but was postponed because of illness of counsel. It was next set for March 17, 1959, in St. Louis, Missouri, but was postponed to March 31 because of changes in the schedule of the Office of Hearing Examiners. Respondents asked that this setting be postponed and the place changed to Washington or Chicago. Upon complainant's statement that most of its witnesses were in the St. Louis area, as were respondents and their records, the Hearing Examiner postponed the hearing to April 14, 1959, in St. Louis, stating that it could be moved if another place appeared to be more convenient later.

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[1] As has been customary in disciplinary proceedings under the Packers and Stockyards Act, the complaint is styled "Order of Inquiry and Notice of Hearing", although the investigation or "inquiry" had apparently been made before the complaint was prepared and filed. Furthermore, there is no notice of a time or place of hearing, rather important items in a notice of hearing, but only a request that a hearing be set if the allegations were not admitted or satisfactorily explained. It seems somewhat inexact, and it might mislead persons not familiar with the Department jargon, to continue to call a complaint by another name, and the Hearing Examiner prefers to refer to the moving paper as the complaint. For similar considerations, the Hearing Examiner has used the term "Recommended Decision" in the heading of this document as a much more accurate description of what it is than the "Examiner's Report" definition in the 1941 rules of practice. See In re Gentry-Thompson Stock Yards Company, Inc., 2 A.D. 173 (1943).

The hearing was held in St. Louis, opening on April 14 and closing on April 24, 1959. Lowell E. Miller, Office of the General Counsel, United States Department of Agriculture, appeared as counsel for complainant, and Ben Ivan Melnicoff, Washington, D. C., appeared as counsel for respondents. The hearing transcript contains 991 pages. Complainant called four witnesses and introduced 80 exhibits. Respondents called three witnesses and introduced 17 exhibits.

Within the time allowed, as extended, after the oral hearing, complainant filed its proposed findings, etc., on July 10, respondents filed their answering brief on September 8, and complainant filed a reply on September 25, 1959.

The testimony and exhibits, and the legal issues raised in the briefs and throughout the hearing, are rather voluminous. No analysis or detailed summary of them will be set out here. Those deemed most important will be discussed below in the Conclusions.

Proposed Findings of Fact

1. The St. Louis National Stock Yards, National Stockyards, Illinois, the Bushnell Stock Yards, Bushnell, Illinois, the Mississippi Valley Stock Yards, St. Louis, Missouri, the Springfield Stock Yards, Springfield, Illinois, and the Union Stock Yards, Peoria, Illinois, are and were at all times material herein posted as subject to the provisions of the Act.

2. Harry Lee Sparks and his wife, Rex Wanda Sparks, the respondents, at all times material herein owned and operated four (five prior to November 26, 1956) partnerships, named below, dealing in hogs.

3. Doing business as H. L. Sparks and Company, respondents are and were registered with the Secretary of Agriculture under Registration No. 13412 as a dealer to buy and sell swine for their own account at the St. Louis National Stock Yards, the Mississippi Valley Stock Yards, and the Union Stock Yards, mentioned above.

4. Doing business as H. L. Sparks & Company of Bushnell, respondents are and were so registered as a market agency to buy cattle, sheep, and swine on a commission basis and as a dealer to buy and sell cattle for their own account at the Bushnell Stock Yards.

5. Doing business as H. L. Sparks & Company of Peoria, respondents are and were so registered as a market agency to buy swine on commission and as a dealer to buy and sell swine for their own account at the Union Stock Yards.

6. Doing business as H. L. Sparks and Company of Springfield, Illinois, respondents were, prior to November 26, 1956, so registered as a market agency to buy swine on commission and as a dealer to buy and sell swine for their own account at the Springfield Stock Yards.

7. Doing business as Midwest Order Buyers, with its principal office at Chapin, Illinois, respondents engaged as buyers of hogs at some of the posted stockyards named above and at other buying points not posted under the Act. As Midwest Order Buyers, respondents were not registered under the Act.

8. Some of the records of the Sparks partnerships at Bushnell, Peoria, and Springfield were kept by Midwest Order Buyers at Chapin. For example, records kept by the registered partnership at Springfield did not show disposition of the hogs purchased by that partnership on the posted stockyard there, such disposition being recorded by Midwest at Chapin.

9. In the usual operation of his dealings in hogs, Respondent Harry Lee Sparks, at the office of H. L. Sparks and Company at the St. Louis National Stock Yards, would get orders from packers for hogs. He would then telephone George J. Ischer, Jr., the manager of Midwest Order Buyers, at the Midwest office in Chapin, telling him what hogs had been ordered. Ischer would then telephone the various places where Midwest bought hogs, giving information as to what hogs were wanted that day. When all purchases had been made, their description was telephoned back to Ischer, who then determined which hogs should be used to fill the various orders, and then gave each buying point

instructions as to where each lot of purchased hogs was to be sent. Subsequently, Ischer prepared the invoices to be mailed to the purchasers whose orders had been filled. Payment by the purchasers was made to Midwest at H. L. Sparks and Company, in National Stock Yards, Illinois, where the Midwest bank account was kept.

10. Hogs purchased by Midwest as above described were listed on the left side of a page in a record book at Chapin. At the left was the name of the purchase point. To the right (but still on the left side of the page) a column showed the number of head, another column the weight, and another column the amount paid for the hogs. On the next line, similar items were shown for another lot purchased, except that the purchase point was not repeated. This continued for as many lots of hogs as were purchased at that point on that day. Then, under these entries, another purchase point was named, and similar entries shown for the lots of hogs bought there on that day. For example, the first two lines on the left side of the page of the record for April 17, 1956, contained the following:

6 Golden	5s	1720	21060
	1s	375	4312

These entries meant that the Golden buying point on that day bought a lot of 5 sows which weighed 1,720 pounds and which cost $210.60. It bought another lot consisting of 1 sow weighing 375 pounds which cost $43.12. Below these lines were similarly listed 9 other lots (except that the number of hogs in the last lot was not listed), showing that 11 lots were bought that day at Golden. A few lines were left blank below the above entries, and then similar entries showed similar information for 13 lots purchased that day at Mt. Sterling. Similarly, below these, entries showed 10 lots purchased at Griggsville, 9 lots at Jacksonville (except that no cost was shown for the last 3 of these), 4 lots at Peoria, and 1 lot at Bushnell.

11. Immediately to the right of the cost column described above are brackets and initials or words. For example, the first 5 lots of the Golden purchases are bracketed, and the last 6 are bracketed. To the

right of the upper bracket there appears "SW", and of the lower bracket there is "To Tail". Every lot shown purchased at every buying point, as listed above, is included in a bracket followed by "SW", "To Tail", "OM", "Home", "To Ch", "HO", or "To Jax", except that there is no bracket in 3 instances where single lots are followed by the letters.

12. On the right side of the page containing the items described above there were listed the purchase point, number, weight, and cost of the hogs going to each packer. For example, the following appeared on the record for April 17, 1956:

	Swift				
	Golden	27	12280	135902	
	Mt. Sterling	14	6110	68111	
	Griggsville	19	8035	89232	
29510	Jacksonville	8	3450	38011	
Gaines		68	29875	331256	
	Peoria	83	23930	327980	
	Bushnell	12	1955	25903	
	C & N	95	25885	353883	
		163	55760	685139	352.65

The first four and the sixth and seventh lines of figures show the totals of head number, weight, and cost of the lots purchased at the six buying points which had brackets with "SW" by them on the left side of the record page. For example, the first line gives totals for the 5 drafts bracketed as described in Finding 11. The lines beginning "Gaines" and "C&N" indicate the trucker and totals for hogs he hauled.

13. There was a copy of an invoice in the records of Midwest, headed "Midwest Order Buyers, Chapin, Ill.", reading as follows:

Bought for:		Swift & Company National Stock Yards, Ill.			April 17, 1956
Dale Gaines	68 Hd.	12	1955	1350	26392
Curtis & Haines	95 Hd.	2	415	1425	5913
		21	5365	1400	75110
		28	7950	1375	109312
		36	11700	1350	157950
		12 s	4140	1275	52785
		6 s	2295	1250	28687
		13 s	5740	1200	68880
		25 s	12385	1175	145523
		8 s	4335	1150	49852
		163	56280		$720404
				Service	3000
					$723404

14. A comparison of Findings 12 and 13 shows that 12 hogs weighing 1,955 pounds were purchased at Bushnell, a posted stockyard, and 12 hogs were invoiced to Swift at the same weight. It could well be that these were the same hogs. No other lots have the same number of hogs in the two findings. However, the 19 hogs weighing 8,035 pounds purchased at Griggsville, not a posted point, may be the same as the 6 and 13 hogs weighing a total of 8,035 pounds invoiced to Swift.

15. The record described in Finding 10 shows 2 hogs weighing 415 pounds purchased at Bushnell, a posted yard. The Swift invoice (Finding 13) shows 2 hogs at the same weight. The record described in Finding 10 shows 21 hogs weighing 5,305 pounds, and 28 hogs weighing 7,850 pounds, purchased at Peoria (posted). The Finding 13 invoice shows 21 at 5,365 (60 pounds more), and 28 at 7,950 (an even 100 pounds more).

16. No other comparison of figures on matters described in

Findings 10 through 13 is readily apparent. There appears nothing in the record other than comparisons of figures, as in Findings 14 and 15, to identify lots of hogs on the Swift invoice with lots of hogs shown purchased and allotted in the record book.

17. Findings 10 through 16 are based upon Complainant's Exhibit 3, admitted in evidence, which consists of figures, etc., copied from the records at Chapin by an auditor for complainant. This does not involve a transaction alleged as a violation in the complaint, but shows how purchases of hogs ordered by and distributed to packers (Finding 9) were recorded at Chapin. Exhibit 3 shows all hogs so purchased and distributed for that day, the left side of the page. Data on the right side of the page, and the related invoices, are not shown by Exhibit 3 for all distributees, but for Swift only.

18. Complainant's Exhibit 4 does relate to an alleged violation in the complaint. It does not include all purchases recorded for the day, but only those bracketed to "SW" from the various buying points. From the right side of the page, it shows the summary of the 488 hogs assigned to Swift from the six buying points, including 167 hogs weighing 62,560 pounds from the posted Springfield yard. The total purchase weight of the 488 hogs was 144,245 pounds, but the weight on the Swift invoice was 146,005 for 488 hogs that day. From all the recorded figures, weights, etc., the hogs sold cannot be identified with those purchased, either individually or by lot, except that 11 of the 167 purchased at Springfield, weighing 6175 pounds, could be the 11 invoiced at that weight. These records show that 488 hogs purchased on December 1, 1955, were invoiced to Swift under that date at a weight of 1,760 pounds more than they weighed at purchase. Respondents' records did not show that any of the 488 hogs were reweighed, except that off-truck weights (on which the truckers were paid) were, in each instance shown, less than the purchase weights.

19. The only logical conclusion of fact which can be drawn from the records above described is, and it is found, that on December 1, 1955, respondents purchased 167 hogs at a posted stockyard,

commingled these with 321 hogs purchased at places not posted, at a total weight of 144,245 pounds for the 488 hogs, and on the same day sold and invoiced these 488 hogs to Swift and Company at a total weight of 146,005 pounds, without having the hogs weighed at the invoice weights, either item, draft, or total, thus charging Swift for 1,760 pounds more than any true or actual scale weight of the hogs, and the false invoice became part of the records of the purchaser, a packer subject to the provisions of the act, its false copy a part of respondents' records.

20. Records similar to those described above show that in the following transactions respondents sold and invoiced hogs to packers at false weights in excess of true scale weights.

Date	Sold To	Number Of Hogs	Purchase Weight (Pounds)	Invoice Weight (Pounds)	Weight Added (Pounds)
12/1/55	Swift & Co.	488	144,245	146,005	1,760
12/10/55	Swift & Co.	835	214,080	216,390	2,310
12/12/55	Swift & Co.	183	55,860	57,305	1,445
12/14/55	Val Decker	404	89,340	90,340	1,000
12/17/55	Swift & Co.	271	103,705	105,615	1,910
12/19/55	Home Pkg. Co.	595	145,625	147,340	1,715
12/21/55	Kingan	236	59,105	60,300	1,195
12/26/55	Swift & Co.	403	112,205	113,800	1,595
12/27/55	Home Pkg. Co.	256	56,990	57,490	500
12/28/55	Swift & Co.	425	114,900	116,240	1,340
1/10/56	Home Pkg. Co.	663	142,755	144,710	1,955
1/21/56	Swift & Co.	581	167,490	169,490	2,000
1/27/56) 1/28/56)	Swift & Co.	861	212,965	215,525	2,560
2/3/56	St. Louis Ind.	135	53,750	55,300	1,550
2/11/56	St. Louis Ind.	130	54,250	55,430	1,180
2/13/56	Home Pkg. Co.	688	144,310	147,740	3,430
2/16/56	Home Pkg. Co.	643	137,605	140,195	2,590
3/7/56	Hunter Pkg. Co.	639	136,135	137,950	1,815
3/12/56	Home Pkg. Co.	569	108,460	110,360	1,900
3/16/56	John Morrell	326	103,370	105,085	1,715
3/20/56	John Morrell	600	143,700	145,070	1,270
3/20/56	Home Pkg. Co.	440	82,215	83,515	1,300
3/27/56	Swift & Co.	351	80,870	81,870	1,000
3/29/56	St. Louis Ind.	551	141,440	143,510	2,070
4/9/56	Home Pkg. Co.	510	104,585	106,085	1,500
4/16/56	Swift & Co.	343	81,555	82,735	1,180
4/17/56	Home Pkg. Co.	576	112,625	114,425	1,800
4/28/56	Home Pkg. Co.	396	74,353	75,905	1,550
5/1/56	Home Pkg. Co.	285	53,330	54,560	1,230
5/9/56	Home Pkg. Co.	530	107,315	108,815	1,500
5/11/56	Swift & Co.	194	79,365	80,365	1,000
5/22/56	Swift & Co.	400	144,260	145,460	1,200

Date	Sold To	Number Of Hogs	Purchase Weight (Pounds)	Invoice Weight (Pounds)	Weight Added (Pounds)
6/4/56	J. Morrell	332	134,020	135,365	1,345
6/12/56	Kingan Pkg. Co.	734	196,825	198,325	1,500
6/22/56	Oscar Mayer	165	55,030	55,490	460
7/21/56	Kingan	565	135,985	136,985	1,000
8/13/56	Hunter Pkg. Co.	662	138,750	139,750	1,000
8/22/56	Hunter Pkg. Co.	648	142,890	143,955	1,065
8/29/56	Hunter Pkg. Co.	747	165,105	165,980	875
9/6/56	Hunter Pkg. Co.	869	194,100	196,670	2,570
9/7/56	Heil Pkg. Co.	744	168,200	169,700	1,500
9/15/56	Kingan & Co.	994	220,290	222,290	2,000
10/4/56	Swift & Co.	96	32,620	33,620	1,000
10/20/56	Heil Pkg. Co.	353	80,325	81,400	1,075
1/5/57	Swift & Co.	682	217,920	219,420	1,500
1/31/57	St. Louis Ind.	256	57,000	57,950	950

21. Respondents did not send copies of scale tickets to packer purchasers of hogs unless the packer so requested. Most packers did not request it, but Heil Packing Company and Hunter Packing Company did. In 7 of the transactions listed in Finding 20, those of September 7 and October 20, 1956, to Heil, and March 7, August 13, 22, and 29, and September 6, 1956, to Hunter, respondents sent to the purchasers, attached to the invoice in each case, copies of scale tickets purporting to show that different drafts of hogs had been weighed at various weights, the total number of hogs and total weight equalling that shown on the invoice. Such copies of scale tickets were made on the Midwest hog scale at Chapin when no hogs were on the scale, the hogs were not weighed at Chapin, were not weighed in the drafts and at the weights shown on the copies, and were not weighed at the total weight shown by the copies and on the invoice. The false invoices and copies of scale tickets were sent to, and became parts of the accounts and records of, the purchasers, packers subject to the provisions of the Act, and of the respondents.

22. When hogs are sold by weight at the St. Louis National Stock Yards, they are weighed on a scale operated by a weighmaster employed by the stockyard company. An original and two copies of a scale ticket are made when a lot of hogs is weighed. Each scale ticket (and each

copy thereof) contains a serial number imprinted in advance on the forms. At the time of weighing, the weighmaster writes, inter alia, the number of head, and stamps the weight, on the original, and the forms are so arranged that carbon impressions of these are impressed on the copies. The stockyard retains the original, one copy goes to the seller, and one to the purchaser. Title passes as the hogs cross the scale, and settlement is made on the basis of the weight shown on the scale ticket.

23. On October 15, 1951, in P&S Docket No. 1999, In re H. L. Sparks et al., 10 A.D. 1324, respondents were ordered to cease and desist from violating the Act by changing the head count or date on scale tickets for hogs and using the altered tickets as the basis for bills or invoices to customers, and to keep accurate records, including correct number and weight of livestock bought or sold. This order was to be effective six days after service, and no proof of service was offered in evidence. However, it seems certain that respondents would have made it known if the order had not been served.

24. On October 25, 1954, in the St. Louis National Stock Yards, respondents purchased a lot of hogs, for which they received a copy of a scale ticket from the stockyard company showing a weight of 20,860 pounds for 144 hogs. The weight and number shown on the original were not altered, but respondents changed the 144 to 138 on their copy, sold 138 hogs to Chas. Miller & Company, and billed the purchaser on the basis of the altered head count and the original weight.

25. Except for the identity of the purchaser, respondents similarly altered and used their copies of St. Louis National scale tickets as follows: July 28, 1955, 155 changed to 154; November 10, 1955, 25 changed to 26; and April 24, 1956, 59 to 60.

26. On January 6, 1954, respondents altered their copy of a St. Louis National scale ticket to indicate that 3 hogs had been weighed at 390 pounds, when there was no weighing transaction at the stockyard to support this alteration, and billed the purchaser for 3 fewer hogs weighing 390 pounds less than the number and weight shown on the original scale ticket.

27. Except for details not here material, respondents similarly altered and used their copies of scale tickets: On June 8, 1954, 25 hogs at 6,250 pounds; January 19, 1955, 3 hogs at 300 pounds; and July 13, 1955, 15 hogs at 1,615 pounds.

28. On July 9, 1954, respondents altered their copy of a St. Louis National scale ticket to indicate that 1 hog had been weighed at 250 pounds, when there was no weighing transaction at the stockyard to support this alteration, and billed the purchaser for 1 more hog weighing 250 pounds more than the number and weight shown on the original scale ticket.

29. On November 2, 1954, respondents similarly altered and used their copy of a scale ticket for 1 hog at 500 pounds.

30. It is a regular practice of respondents to make such entries on scale tickets as are described in Findings 24 through 29, and to prepare and issue invoices on the basis of such entries.

31. On September 11, 1956, at the St. Louis National Stock Yards, respondents penned in separate pens 3 drafts of 75, 87, and 63 hogs bought by and weighed to them, substituted 1 hog in each pen for a hog which had been weighed, sold and delivered the hogs to Krey Packing Company without reweighing, and billed the purchaser on the basis of the scale weights of the drafts before the substitutions.

32. On September 14, 1955, respondents similarly substituted, sold, billed, etc., hogs in 3 drafts sold to Figge & Hutwelker Co., on September 13, 1956, 5 hogs sold to Charles Miller & Co., and on October 10, 1956, 5 hogs sold to Krey Packing Company.

Proposed Conclusions

Respondents assert that there is no jurisdiction under the Act over the transactions involving Midwest Order Buyers (Findings 9 through 21). They say Midwest is an entity separate and apart from the other Sparks partnerships, is not registered under the Act, and does not operate at a stockyard posted under the Act. While the many purchases of hogs at posted yards shown in the testimony might well require Midwest to register as a dealer at those yards, there has been no attempt to exercise jurisdiction over Midwest as an entity in this proceeding. There is no charge against Midwest Order Buyers, nor even against respondents doing business as Midwest Order Buyers. Midwest is not made a party: the transactions in which Midwest is involved are charged as violations by respondents, who are registered under the Act. Respondents are alleged to have acted partly "through Midwest Order Buyers," not as Midwest Order Buyers. We think the allegations are, and the evidence shows, that Midwest acted as one of the agents of respondents in consummating the transactions. There is no more of an exercise here of jurisdiction over Midwest than there is over any other agents or agencies used by respondents in the transactions, e.g., the bookkeepers who recorded the purchases and sales, the men who yarded and hauled the hogs, even the trucks, railroads, and telephones used by respondents in executing the transactions. In a word, there is just no issue here of jurisdiction over Midwest Order Buyers as an entity, separate or otherwise.

Another reason given by respondents for their claim that the Midwest transactions are not within the jurisdiction given by the Act is that they did not occur at a posted stockyard. To the contrary, the evidence shows that some of the hogs in each transaction were purchased at a posted stockyard. These hogs were within the jurisdiction conferred by the Act, and were not removed from such jurisdiction by being sold with hogs from country points.

Respondents argue that the evidence concerning the records kept at Chapin was obtained illegally and in violation of their Constitutional rights. This claim is based upon the separate entity idea and an alleged agreement between Joseph H. Gilby and G. H. Hopper. Mr. Hopper, District Supervisor at Chicago under the Act, had written Harry L. Sparks a request to give M. C. Smith, a representative of Hopper's office, access at Chapin to "all of your books and records from stockyards, coming under the Packers and Stockyards Act, and all other markets or country points, where you operate as a buyer of livestock." Mr. Sparks referred the letter to Mr. Gilby, the head of

J. H. Gilby & Company, Accountants and Auditors, of Chicago. Mr. Gilby wrote Mr. Hopper that the records would be made available, but that this did not set a precedent, and stating that Mr. Hopper had agreed that he was not entitled to ask for such records. Mr. Hopper had asked for the records in writing, and Mr. Gilby said they would be produced. We do not see how this could be construed as an agreement for the future even if an employee could legally bind the Government by an agreement. Mr. Gilby's contention overlooks the fact that Midwest kept some of the records for respondents' registered partnerships (Finding 8), testified to by Mr. Gilby at the hearing, and the whole pattern of respondents' operations, mentioned below. By commingling records which might not be material with records of a registrant, respondents did not remove the latter from the purview of the Act. Woerth v. United States, 231 F.2d 822 (C.C.A. 8,1956).

In addition to this claim that the Chapin records were not subject to inspection, respondents say that excerpts taken from them by Earl W. Sherman, an auditor for complainant, should not have been received in evidence because the records were not brought to the hearing room. Such evidence is admissible in this proceeding. In re Harry C. Daniels, 12 A.D. 1113, 1120 (1953); In re Harry C. Daniels, 14 A.D. 903, 921 (1955), affirmed, Daniels v. United States, 242 F.2d 39, 16 A.D. 277 (C.C.A. 7, 1957).

Findings 8 and 9 are based upon evidence and testimony given by witnesses for both complainant and respondents. They are thought to be fair statements of facts not now in dispute. The pattern of operation shows that respondents' hog buying was an integrated affair in which orders were taken at and distributed from a posted stockyard, some of the hogs were bought at posted stockyards, and payment was received at a posted stockyard. This record would not support a finding or conclusion that respondents were acting in these transactions in the entity of Midwest as distinct and separate from their other partnerships.

Findings 10 through 20 are based upon excerpts copied by Mr. Sherman from the records at Chapin, and his testimony in presenting them in evidence. He testified that except for the few instances in which they were copied into the exhibits, no reweights were shown on the records, that when Midwest employees were questioned during the examination of the records they said there were no other records of reweights, and that he found none.

Edgar McNay, manager of the Quincy buying point of Midwest, testified that hogs bought there were penned according to type and were reweighed when loaded out, and that the reweigh scale tickets were not sent to Chapin but placed in a drawer and discarded when the drawer got full.

Mr. Ischer testified that all invoice weights were reweigh weights, but on cross examination he said that hogs going from Springfield to Swift would go at the weight they were billed to Midwest, and he did not know whether that was a reweigh. Furthermore, he said in a sworn statement received in evidence that at times weight is added to buy weights to take care of the shrink. This statement was read over the telephone to Respondent Harry Lee Sparks. Mr. Ischer did not deny the facts set out in the statement when he testified, and Mr. Sparks did not testify.

Mr. Gilby testified that he was told that all weights on invoices were either reweigh weights or purchase weights to Midwest. On cross examination he said that he knew from reports, and from figures in the Midwest records. (Tr. 430, 787-789) He did not identify the record, nor produce the record or any copy of it.

In the testimony and arguments presented, respondents say that complainant's auditors made mistakes in copying the records, did not know how to analyze records, looked at the wrong records, copied only mere memorandum records, etc. If all of the mistakes alleged by respondents were actually mistakes, possibly 4 transactions would be eliminated from Finding 20, and the number of hogs and differences in weight would differ in a few others. Whatever analysis complainant's auditors made seems to be entirely supported by what was copied from respondents' records. To support their claims, respondents have not offered their records. If there are mistakes in complainant's exhibits, respondents could easily show it by presenting the records. If the analysis is wrong, respondents might present a correct one. If the only records of respondents which were put into the record of this proceeding were the wrong records, respondents could easily show it by presenting the right ones. If the records excerpted were only memorandum records, respondents might show by more than mere assertions what their defects were, and what the permanent records were. When faced with copies of their records which so clearly show the facts set out in Findings 8 through 20, we think respondents have failed to discredit what appears to be convincing evidence. As indicated in Finding 19, we have drawn the only conclusions of fact that seem possible on this record.

Perhaps respondents' claim that the average gain in weight per hog was less than that indicated by the figures in the complaint should be mentioned. It was said that the hogs in each transaction were a part of a greater number of hogs purchased, and the gain in weight shown was for all of the hogs purchased. The only records identified for this record do not support this contention, as the purchase weights and the sale weights are for the same hogs. But if it were true, it would not seem to help respondents to show that they had not only charged the packer for a gain in weight of the hogs it purchased, but also for a gain in weight of some other hogs which the packer never received.

Respondents asserted that hogs bought at posted stockyards were sold at the purchase weights, with the result that all invoice increase in weight was on hogs purchased in the country, which were reweighed to show a gain. The only evidence from respondents' records does not support this. From Finding 14, and 12, hogs from Bushnell bought and sold at the same price--if they are the same hogs--would tend to support it. However, the 19 hogs from Griggsville--equally iffy--would indicate the use of purchase weights from country points. Likewise, from Finding 15, the 2 hogs from Bushnell might support respondents' assertion, but the 21 and 25 hogs from Peoria would as well show added weight from a posted yard. We are not told why one class is reweighed while the other is not, and the only evidence that there is a difference is testimony not corroborated by records. From the records, as indicated in Finding 16, there is no way to separate the hogs sold to a packer into those purchased at posted yards and those purchased elsewhere. Furthermore, it is physically impossible that invoice weights were purchase weights for posted stockyard hogs. Except for a few drafts, such as those in Findings 14 and 15, mentioned above, the drafts purchased were different from the invoice drafts. The purchase weight of a draft of hogs cannot be broken down into a purchase weight for the individual hogs weighed in the draft.

At the hearing it appeared to the Hearing Examiner that respondents' exhibits 4 through 12 were excerpts from their records made under the supervision of Mr. Gilby, in a somewhat similar manner to those presented by Mr. Sherman. For this reason they were admitted over complainant's objection. Consideration of the written record, and the failure of the witness after their admission to explain or identify specific records from which some of the purported excerpts were taken, make it appear very questionable that they should have been admitted. They were made by unnamed persons in Chapin and sent to the witness in Chicago. He said they were prepared under his supervision, but his unfamiliarity with them on the witness stand indicates that his supervision was not sufficient to legally qualify him to testify instead of the ones who physically prepared them. We do not believe their identification would authorize their admission to prove a complaint against a respondent. However, there may be a wider latitude in the case of defending charges than in prosecuting them. At any rate, respondents were not denied a chance to explain, and the admitted exhibits have not been found sufficient to harm complainant's case.

Unlike the matters mentioned above, printing of scale tickets at Chapin (Finding 21) is not now disputed. Respondents denied the allegations in the complaint on this point, but after testimony clearly showed that the scale tickets were printed on the Chapin scales, and that such scales would not hold nearly as many hogs as some of the tickets indicated had been weighed in one draft, there was no further denial. It was "explained" that these were only summaries of many drafts that had been weighed elsewhere. Again, no record evidence was offered to support their contention, and the testimony was by two witnesses, one of whom did not know who printed the tickets, and the other of whom denied responsibility for printing them. The latter even said he did not know why the packers asked for scale tickets. Even if these were summaries of numbers of other actual weighings--which we have found they were not--the fact remains that they were misrepresentations.

After complainant's testimony and exhibits were presented as to alterations of number of head, drafts, etc., on scale tickets, and substitution of hogs after weighing (Findings 22 through 32), there were no denials, but again "explanations." On change of head count, Mr. Gilby testified that he had ascertained from Harry Sparks and various employees of respondents that a change was made at the direction of the stockyard weighmaster, and that there was a note made out in the records. None of respondents' employees were called, no record entry was offered, and the witness did not even talk to any stockyard employee on this matter. In addition to being entirely uncorroborated hearsay, this "explanation" conflicts with competent testimony that if a weighmaster alters or directs alteration of a copy of a scale ticket, he makes the change on the original. Another example of "explanations" was the presentation of a scale ticket copy showing 1 hog weighed at 500 pounds on October 28, 1954. The witness said respondents simply wrote the number and weight on the November 2 ticket instead of looking up the original. Even if this were true, respondents sold this hog on a weight 5 days old, using a scale ticket they altered to show a weighing on November 2. We need not burden the record with further discussion of respondents' claims of how and why they did things. The fact remains that they did do what the findings show, after the cease and desist order of 1951.

Respondents contend that no sanction can be invoked against them because they were not warned and given an opportunity to achieve compliance, as required by Section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)). This requirement does not apply in the case of willfulness. Respondents' acts were knowingly and intentionally done, and were willful as that term is used in the cited provision. In re Benedict K. Goodman, 18 A.D. 1121, 1128 (1959).

Selling hogs at false weights, printing false scale tickets, altering scale tickets, substituting hogs in drafts after weighing, and causing false entries in their own and in packers' records, as respondents did, are unfair, unjustly discriminatory, and deceptive practices in violation of Section 312(a) of the Act (7 U.S.C. 213), warranting a cease and desist order under section 312(b), and lengthy suspension of registrations under 7 U.S.C. 204. In re Kennett-Murray Company et al., 16 A.D. 8 (1957); In re Arnold, 12 A.D. 489, 507, 509 (1953). The false entries constituted violations of Section 402 of the Act (7 U.S.C. 222), which incorporates by reference Section 10 of the Federal Trade Commission Act (15 U.S.C. 50). For their violations, respondents should be ordered to cease and desist from them, and the suspension of registrations for two years recommended by complainants should be issued. Numerous violations of the 1951 order show that something more than a similar sanction is necessary.

Proposed Order

Respondents shall cease and desist from:

Selling hogs at false weights;

Using any false scale ticket as a basis of settlement for hogs sold;

Altering any scale ticket or copy thereof issued by a posted stockyard;

Using any scale ticket to indicate the weight of a lot of hogs after any substitution of any hog after the draft was weighed; and

Causing false entries in their own accounts, records, or memoranda, or in those of any other person or firm subject to the provisions of the Act.

Respondents shall keep such accounts, records, and memoranda as will fully and correctly disclose all transactions involved in their business.

Respondents' registrations under the Act are suspended for two years.

Copies hereof shall be served upon the parties.

Except as to service and suspension, this order shall become effective on the 16th day after its date. The suspension of registration shall become effective on the 20th day after the date of this order.

Note: The foregoing is the recommended decision. It is not a final order. The final order will be issued by the Judicial Officer after the parties have had opportunity to file exceptions, etc., as provided by the rules of practice.

/s/ Jack W. Bain
Hearing Examiner

January 18, 1960

RESPONDENTS' EXCEPTIONS TO RECOMMENDED DECISION AND REQUEST FOR ORAL ARGUMENT

Come now the respondents in the above-entitled matter, and file their exceptions to the Recommended Decision herein, and to the examiner's rulings on objections taken to the action of the examiner at the hearing of this matter, as follows:

I.

1. AS TO PROPOSED FINDINGS OF FACT NOS. 10 THROUGH 17:

"Findings 10 through 16," it is stated in Proposed Finding of Fact 17, "are based on complainant's Exhibit 3" which, as stated in Proposed Finding of Fact 17, "does not involve a transaction alleged as a violation in the complaint." (Rec. Dec., 9). Complainant's Exhibit 3 was offered for a limited purpose (Tr. 123-4), was objected to at the hearing (Tr. 157-9, 165-7), but was admitted for this limited purpose (Tr. 167), over respondents' continuing objection.

The admission of this exhibit, even for the limited purpose of "showing the procedure which was followed by Mr. Sherman in tracing certain purchases of hogs to their ultimate destination, and for the purpose of showing in a little more detail than is shown by other exhibits the exact manner in which certain entries were made in Mid-West Order Buyers distribution book . . ." was an error for the reason, among others, that this exhibit does not in fact "portray the exact manner in which certain entries were made in Mid-West Order Buyers distribution book." It may be a correct portrayal of certain figures, but these figures are in no way related to any violation alleged, which Proposed Finding 17 concedes, and furthermore, it is a too limited portrayal, and therefore reflects a distorted, rather than a true view, of what it purports to depict. See, New England Divisions Case, 261 U. S. 184, 43 S. Ct. 270, 67 L. Ed. 605 (1923).

On the other hand, respondents' exhibits 4-12, inclusive, and the evidence respondents adduced with respect thereto, reflect the actual practice, as demonstrated by actual transactions. A comparison of complainant's exhibit 3 with respondents' exhibits 4-12, reveals the distortion.

Candor and fairness dictate that specific entries relating to specific allegations should have been offered by complainant. In these circumstances, complainant's exhibit 3 and Proposed Findings of Fact 10 through 17, are misleading, irrelevant, and non-factual and tender issues as to which respondents had no notice. This exhibit, complainant's exhibit 3, brings into the matter a transaction which is not alleged in the complaint, and develops it to show a violation, when, in fact, none was alleged. The interjection of so-called "illustrative" evidence, at the expense of, and to the exclusion of "actual" evidence, imposed a burden on respondents which they cannot be required to bear. Moreover, the relationship between the transactions reflects on complainant's exhibit 3 and the exhibits subsidiary to it and is not such that the former can be taken to be proof of the latter. The plain fact is that complainant did not prove the specific allegations alleged because it could not do so and, accordingly, sought to avoid its problem of proof by subterfuge. For these reasons, it is submitted, complainant's exhibit 3, and the Proposed Findings of Fact based thereon, are improper either as primary of cumulative Findings. They betray a basic weakness in the foundation of violation which complainant sought to erect.

Accordingly, exception is taken to this exhibit, and to its admission in evidence, and to Proposed Findings of Fact Nos. 10 through 17, both inclusive, on these grounds, and such other grounds as may be hereinafter stated or urged at the oral argument.

In view of this exception, it is requested that these proposed findings of fact be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "17. Findings 10 through 16, being based on complainant's exhibit 3, which does not involve a transaction alleged in the complaint, be stricken."

2. AS TO PROPOSED FINDING OF FACT NO. 14:

This proposed finding is further excepted to on the ground that it fails to find that the hogs therein described are the same hogs described in Findings 12 and 13. This proposed finding can be based only on the statement made by complainant's witness Sherman, made with respect to complainant's Exhibit 4, not complainant's exhibit 3 (Tr. 115, lines 13-19). Accordingly, this proposed finding is not supported by the record and must fall. Moreover, respondents' witness Gilby, in his exhaustive analysis of all the transactions alleged in the complaint, demonstrated conclusively, from the identical records relied upon by complainant, that the hogs reflected on the invoices can be traced and identified. This testimony squarely contradicts that of complainant's witness, and must prevail (Respondents' Exhibits 4-12, inclusive). E.g., Resp. Ex. 4, Tr. 474-482, 530-539, particularly pp. 537-539. (Note: Tr. 478, line 16, should be "2" and not "20". This is an obvious typographical error.)

Accordingly, Proposed Finding of Fact No. 14 is further excepted to, on these grounds and on such other grounds as may be hereinafter stated or urged at the oral argument.

In this circumstance, it is requested that this proposed finding of fact be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "14. A comparison of Findings 12 and 13 shows that 12 hogs weighing 1,955 pounds were purchased at Bushnell, a posted stockyard, and 12 hogs were invoiced to Swift at the same weight. These are the same hogs. The 19 hogs weighing 8,035 pounds purchased at Griggsville, not a posted point, are the same 6 and 13 hogs weighing a total of 8,035 pounds invoiced to Swift."

3. AS TO PROPOSED FINDING OF FACT NO. 16:

This proposed finding is further excepted to on the grounds hitherto urged with respect to Proposed Finding of Fact 14.

Accordingly, Proposed Finding of Fact 14 is further excepted to, on these grounds and on such other grounds as may be hereinafter stated or urged at the oral argument.

In these circumstances, it is requested that Proposed Finding 16 be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "16. The comparison of the figures, as well as the evidence of record, identifies the lots of hogs on the Swift invoice with the lots of hogs purchased and allotted in the record book."

4. AS TO PROPOSED FINDING OF FACT NO. 18:

This proposed finding is excepted to for the reasons, among others, that it is contrary to the substantial evidence of record, in proposing a finding that "From all the recorded figures, weights, etc., the hogs sold cannot be identified with those purchased, either individually or by lot, except that 11 of the 167 purchased at Springfield, weighing 6,175 pounds, could be the 11 invoiced at that weight" and that "respondents' records did not show that any of the 488 hogs were reweighed, except that off-truck weights (on which the truckers were paid) were, in each instance shown, less than purchase weights."

These proposed findings, and the proposed finding as a whole, are contrary to the substantial evidence of record. It is based on an incomplete exhibit (complainant's exhibit 4, Tr. 111, et. seq.) and totally ignores the evidence as to this particular transaction adduced by respondents, including, but without limitation to, respondents' exhibit 12, sheet 5, headed, in the upper left hand corner, "Swift & Company, Dec. 1, 1955", the testimony of the witness Gilby (Tr. 494-511, See Tr. 506, correcting "December 10, 1955" to "December 1, 1955", Tr. 506, lines 4-7). This evidence shows the origin of each and every one of the hogs involved in this transaction, dated December 1, 1955, and shows in plain, readable, understandable figures the precise reweigh weight under a column so headed. This witness specifically testified to the manner in which the reweighs were determined. (Tr. 530-539, particularly, Tr. 537, lines 5-18; Tr. 538, lines 5-22; note, change "laying", Tr. 538, line 5, to "weighing," and "lay off," Tr. 538, line 6, to "weigh off." See also Tr. 579).

The reference in this finding to the truckers' weights discloses a tendency to stress any written figure, regardless of its purpose, without explanation, which is in any way contrary to the invoice weight. This discloses a reliance on evidence which is scarcely substantial, and therefore, the finding thereon must fall.

Accordingly, exception is taken to this Proposed Finding, on these grounds and on such other grounds as may be hereinafter stated or urged at the oral argument.

In view of this exception, it is requested that this Proposed Finding of Fact be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "18. Complainant's exhibit 4 does relate to an alleged violation in the complaint. It does not include all purchases recorded for the day, but only those bracketed to "SW" from the various buying points. From the right side of the page, it shows the summary of the 488 hogs assigned to Swift from the six buying points, including 167 hogs weighing 62,560 pounds from the posted Springfield yard. The total purchase weight of the 488 hogs was 144,245

pounds, but the weight on the Swift invoice was 146,005 for 488 hogs that day. From all the recorded figures, weights, etc., the hogs sold can be identified with those purchased, either individually or by lot."

5. AS TO PROPOSED FINDING OF FACT NO. 19:

Exception is taken to this proposed finding, on the grounds urged herein with respect to proposed finding 18, and on the further ground that this finding reflects the error asserted in the complaint, that the added weight was 1,760 pounds notwithstanding that respondents' exhibit 12 clearly shows that the difference in weight on the 321 hogs originating at country points is 1,260. This 500 pound error is substantial and discloses a slavish adherence to the complaint. It also prompts the question as to how carefully respondents' contentions were considered.

Exception is further taken to the finding that "respondents purchase" hogs, and to the finding that posted stockyard hogs were "commingled" with hogs purchased at country points. The purchaser was Mid-West, not the respondents, and there was no commingling. A non-registrant county-point person purchased hogs and resold them, all in the usual, normal course of business. The terms "respondents" and "Mid-west" are not synonymous. The entities so described are separate and distinct. (Complaint, Par. II, Proposed Findings of Fact 2, 3, 4, 5, 6.)

Accordingly, exception is taken to this proposed finding of fact, for the reasons and on the grounds heretofore stated, and for such other grounds as may be hereinafter stated or urged at the oral argument.

In view of these exceptions, it is requested that the proposed finding be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "19. The only logical conclusion of fact which can be drawn from the records above described is, and it is found, that on December 1, 1955 Midwest purchased 167 hogs at a posted stockyard, and purchased 321 hogs at places not posted, at a total weight of 144,245 pounds for the 488 hogs, and on the same day sold and invoiced these 488 hogs to Swift and Company

at a total weight of 146,005 pounds. The difference in weight, 1260 pounds, represents a gain in weight."

6. AS TO PROPOSED FINDING OF FACT NO. 20:

Exception is taken to the proposed finding of fact for the reasons and on the grounds hitherto urged herein with respect to proposed findings Nos. 18 and 19. This proposed finding is a verbatim reproduction of paragraph IV of the complaint, with all its errors. Without explanation or discussion, the examiner swept aside the evidence that at least four items listed in paragraph IV of the complaint, and reproduced in proposed finding 20, did not include hogs originating at country points, notwithstanding that the complainant stated that it was intended to allege only such items, and so reflected them on complainant's exhibit 2 (Tr. 103). These four items were testified to at the hearing (Tr. 542-9, December 10, 1955; Tr. 558-9, December 14, 1955; Tr. 569-70, December 21, 1955, and Tr. 560-2, December 27, 1955), were reflected in respondents' exhibits Nos. 12, 8, 6 and 11, and were briefed to the examiner (Resp. Br., p. 8). In these circumstances, the cavalier refusal even to note these facts destroys this finding. Obviously, it is neither based on, nor reflective of, the record. It must fall.

This proposed finding is further excepted to on the further ground that it assumes jurisdiction in a matter in which the agency has no jurisdiction; that it finds as wilful, and as violations, acts which, if jurisdiction is resident in the agency, are neither wilful nor violations of either the Act or the rules and regulations promulgated thereunder; that the record upon which this finding is made, as to both jurisdiction and fact, is neither existent or substantial.

This proposed finding is nothing more than a recital of the allegations of Paragraph IV of the complaint, and as such is nothing more than a cumulative finding based on cumulative errors.

Accordingly, exception is taken to the proposed finding on these grounds, and on such other grounds as may be stated herein, or urged at the oral argument.

In view of these exceptions, it is requested that this proposed finding be stricken, or, in the alternative, it is suggested that a proposed finding of fact be substituted, reading as follows:

> "20. The record of this proceeding discloses that certain items set forth in paragraph IV of the complaint should be stricken as being beyond the scope of the Notice of Hearing, and that this paragraph of the complaint, as so amended, be stricken in its entirety, for the reasons and on the grounds, among others, that the agency lacks jurisdiction of the subject matter and the persons, and that the acts complained of, are not in fact either wilful or violations of the Act and the Rules and Regulations promulgated thereunder."

7. AS TO PROPOSED FINDING OF FACT NO. 21:

Exception is taken to the proposed finding on the grounds, among others, that it is not based on either any or substantial evidence, that "respondents" in fact did not perform the acts complained of, and that, in fact, no violation of the act, either wilful or otherwise, was committed by anyone.

The witness Gilby testified that this procedure was followed for the purpose of conveniencing a particular packer-purchaser, and that a memorandum or summary scale ticket, and not a scale ticket, although on a scale ticket form, was in fact prepared for this packer-purchaser. (Tr. 596-604). This witness testified that there was in existence, prior to the preparation of the complained of document, a scale ticket for every pound on every hog reflected on the summary scale ticket, and that the complained of documents were nothing more than "memoranda" of the transactions (Tr. 601). His explanation for this procedure was reasonable and logical. Hogs moved faster than the mail. The packer-purchaser wanted a memorandum of the weights. The scale ticket was a convenient form. This and nothing more was involved. The Packers & Stockyards Branch has administratively recognized the propriety of this practice. Currently, this Branch has approved a "memorandum scale ticket" form to accompany the invoice to the packer. This is continuation of the practice of which complaint has been made.

Nevertheless, the complainant called an expert to testify to the scale on which the complained of documents were made, (Tr. 302 et. seq.), who testified to matters as to which respondents would have stipulated, had request therefor been made. Complainant was determined to prove that which no one contested, and then, its proof in, refuses to listen to the reasonable, logical, sensible explanation.

Accordingly, exception is taken to this proposed finding, for the reasons and on the grounds stated herein and which may be urged at the oral argument.

In view of this exception, it is requested that the proposed finding be stricken, or in the alternative, that a proposed finding be substituted, reading as follows:

> "21. Midwest did not send copies of scale tickets to packer-purchasers of hogs unless the packer so requested. Most packers did not request it, but Heil Packing Company and Hunter Packing Company did. In 7 of the transactions listed in Finding 20, those of September 7 and October 20, 1956, to Heil, and March 7, August 13, 22 and 29, and September 6, 1956, to Hunter. Midwest sent to the purchasers, attached to the invoice in each case, copies of scale tickets which were in fact memoranda of the weights involved. Such memoranda are not scale tickets, and were not represented as such to the packer-purchaser. In these circumstances, such memoranda do not constitute violations of the Act. Moreover, such memoranda were prepared and used by Midwest Order Buyers, a non-registrant, which is not subjected to Act."

8. AS TO PROPOSED FINDING OF FACT NO. 23:

This proposed finding is excepted to for the reason and on the ground, among others, that the earlier proceeding, to which this proposed finding refers, concerned matters and things separate and distinct from the violations alleged in this proceeding. Moreover, as the Order referred to shows, such matters as were therein concerned, were specifically denoted to be "non-wilful".

Accordingly, exception is taken to this proposed finding, for the reason and on the ground stated herein, and on such other grounds and reasons that may be hereinafter stated, or may be urged at the oral argument herein.

In view of this exception, it is requested that this proposed finding be stricken.

9. AS TO PROPOSED FINDINGS OF FACT NOS. 24 AND 25:

These proposed findings are excepted to for the reason that the record clearly shows that there was in fact no violation of the Act committed, and therefor the alleged acts should not have been cited, and that in any event, the actions complained of were non-wilful.

These proposed findings relate to a change in head count, with no change in weight. Only 9 hogs are involved, in four transactions; the first, on October 25, 1954, just short of three years prior to the issuance of the complaint involving 6 hogs; the second on July 28, 1955, almost three years prior to the issuance of the complaint, involving 1 hog; the third on November 10, 1955, just short of two years prior to the issuance of the complaint, and involving 1 hog, and the fourth and last, on April 24, 1956, and involving only 1 hog.

The witness McCoy who testified with respect to this phase of the complaint, stated that he conducted his investigation in the summer of 1956 (Tr. 390), and that he never requested an explanation from anyone in the Sparks organization (Tr. 391-2). He likewise made no inquiry with respect to the matters he found in connection with the items reflected in proposed findings 27, 28, and 29 (Tr. 402-5).

This witness further testified that changes in head counts are necessary to reflect errors in computation (Tr. 404-410) and finally concluded that when such errors in head counts occur, the change in the head count should be made by an authorized person and initialled and all copies should be initialled (Tr. 410).

The testimony of the witness Gilby with respect to this matter is illuminating (Tr. 617-623). "The truth is that by order of the stockyard's employee responsible - they were instructed to change the number of hogs on that second item to the figure that is now shown, 138. We have a record against the transaction in the book that records it of who called up and gave these instructions. I did not carry a copy of the initials, and the same is true - of the other - three items", in paragraph XI (a) of the complaint (Tr. 621). This is the truth.

As this witness testified, it is not a case of hogs being taken off or added on (Tr. 621), but simply "a case of the scale ticket showing the weight of the hogs that are now represented after the change" (Tr. 622). It was nothing more than the correction of an error in head count (Tr. 622-3), and the fact, it should be noted, was simply in failing to have the change initialled by a stockyard company employer.

This witness further stated that this method of correcting the head count was the "customary practice" obtaining at the stockyard, not the "customary practice" of the respondents, as found in proposed finding No. 30 (Tr. 623). The changes are made on instructions from the stockyard employees, who in turn neglect to change their own copies. Respondents cannot be held responsible for the neglect of the stockyard employees (Tr. 623). That this is the practice of the stockyard and the responsibility of the stockyard, is affirmed by a statement by William Heinrich, a hog counter at National Stock Yards, the original of which is attached hereto and made a part hereof as Addendum 1.

There is no charge, there is no proof, that the hog count as amended, was incorrect. There is no charge, there is no proof that the count was changed in order to overreach the purchaser. Thus, the only charge is that the procedure followed to amend the scale ticket to reflect the true and correct facts, was somehow faulty. And, this charge results from the failure of the stockyard employees to reflect this change on their records. In fact, the gravamen of this charge may well be that the stockyard employees failed in their duty - and responsibility, vicariously, is lodged with respondents for this failure, that of the stockyard employees. This, it is respectfully submitted, is not a violation, a wilful violation, of the Act and the Regulations for which forfeiture of registrant is warranted.

It should be noted that both laches and de minimus are applicable to this Proposed Finding. These are spelled out above - four transactions, over a period of three years, involving eight hogs out of over one million hogs. This is indeed seeing the mote in another's eye.

Accordingly, exception is taken to Proposed Findings 24 and 25, for the reasons stated, and for such other reasons as may be hereinafter stated or urged at the oral argument.

In view of this exception, it is requested that these Proposed Findings be stricken, or, in the alternative, it is suggested that each of these Proposed Findings be amended by adding at the end of each, the following sentence:

> On the basis of the record, this does not constitute a violation of either the Act or the Rules and Regulations.

10. AS TO PROPOSED FINDINGS OF FACT NOS. 26, 27, 28 AND 29:

These Proposed Findings are faulty, and exceptions there are taken, for the reason and on the ground, that the record clearly shows that there was in fact no violation of the Act committed and that, in any event, the actions complained of were non-wilful.

These Proposed Findings of Fact concern changes made in the head count on scale tickets to reflect the "weigh-off" of a small number of hogs over a period dating from January 6, 1954, in only seven instances (complainant's exhibits Nos. 51, 53, 55, 57, 59, 61 and 63). No evidence was adduced with respect to five items alleged in Paragraph XI (b) of the complaint and no findings were made with respect thereto.

At the threshold, it should be noted that here again, the witness who conducted the investigation and who sponsored the exhibits to establish these violations, testified that he made no inquiry of respondents to explain the acts complained of, notwithstanding that one of the documents of which he made a copy contained a garbled word (Tr. 380, 383, 385, 390, 391, 392, 402, 403, 404). Moreover, the witness offered no testimony as to the facts, other than to identify the exhibits (Tr. 404).

The witness Gilby, who testified for the respondents, however, did clarify this matter. His testimony is clear, unequivocal, and substantial by every test.

As to the transaction dated January 6, 1954, complainant's exhibit No. 51, Proposed Finding 26, he explained that the three hogs shown as "off" were removed at the direction of a representative of the Bureau of Animal Industry (Tr. 624-5). This is the explanation for the transactions dated January 19, 1955 (complainant's exhibit 57, Proposed Finding 27); July 13, 1955 (complainant's exhibit 59, Proposed Finding 27), and October 14, 1955, which was dropped in view of the fact that no evidence was adduced thereon, and as to which no finding was proposed. These hogs were all sold to a dealer who made some disposition of them which is of no concern here (Tr. 626).

As to the transaction dated June 8, 1954 (complainant's exhibit 53, Proposed Finding 27), the writing complained of was nothing more than a memorandum reflecting a price division. As the witness Gilby said: "Same weight to the same party, same hogs to the same party, the invoice showing so many at such a price and so many at another price." (Tr. 627-628).

As to the transaction dated July 9, 1954 (complainant's exhibit 61, Proposed Finding 28), this witness testified that it was a "slow" hog (Tr. 633, line 25) that had been previously weighed but had been carried over (Tr. 634, 730-733).

As to the transaction dated November 2, 1954 (complainant's exhibit 63, Proposed Finding 29), the addition of the 500 pound hog represented a boar which was a "slow" (Tr. 634, line 24) - that is, a hog which had been previously weighed, but which for some reason, perhaps because it could not keep up with the rest of the draft, was not loaded out. The term "slow" is a stockyard idiomatic expression (Tr. 638). This witness produced a scale ticket which was marked for identification as respondents' exhibit 18 (Tr. 635), and subsequently admitted (Tr. 926). The full and complete explanation of this transaction was given by this witness, complete as to all details, including how he obtained the scale ticket which was admitted in evidence as respondents' exhibit 18 (Tr. 919-926). This testimony shows that, in fact, no violation, wilful or otherwise, was committed with respect to this transaction.

A resume of the record as to these Proposed Findings discloses a poverty of proof and a plethora of surmise.

The hogs taken off were removed at the direction of the Bureau of Animal Industry, a Federal agency.

The writings complained of are memoranda.

The transactions occurred in 1954 and 1955.

The complaint was issued on October 10, 1957.

Candor and consideration argue and urge that this is not the kind of evidence upon which forfeiture may be based.

Accordingly, exception is taken to these Proposed Findings and it is urged that they be stricken. The only findings justified by this record with respect to these matters is that they should be stricken, and such findings are suggested.

11. AS TO PROPOSED FINDING OF FACT NO. 30:

This Proposed Finding is excepted to on the ground that the chronology appearing in Proposed Findings 24 through 29, on their face, disclose that the practices therein found are not "regular" and do not constitute respondents' "regular" practice. Moreover, as pointed out above, the examiner misread and misconstrued the single statement in the record which even contains the word "regular".

Accordingly, exception is taken to this Proposed Finding, and it is requested that it be stricken, for the reasons indicated and for such other reasons as may be urged at the oral argument. In view of the context in which this Proposed Finding appears, it is suggested that it be amended by striking it as a Finding.

12. AS TO PROPOSED FINDINGS OF FACT NOS. 31 and 32:

These Proposed Findings of Fact are excepted to for reason and on the ground that the actions complained of are not in fact violations of the Act, that the actions complained of were not wilful, and that, in any event, such acts were not performed or committed by respondents. A review of the record discloses the truth and applicability of these assertions.

The witness McCoy conducted the investigation and sponsored in evidence the exhibits upon which complainant relies to establish the actions complained of as wilful violations of the statute and the regulations. He stated that he obtained the documents, which are reflected on complainant's exhibits 65 and following, "during the summer of 1956" (Tr. 390), which was more than a year before the complaint was issued.

The manner in which he conducted this investigation is interesting. Methodically, he copied documents relating to certain transactions. Whether he copied only those which were later submitted as evidence at the hearing, or whether he copied only certain documents pursuant to beforehand given instructions, does not appear. Questions as to this phase would, it is certain, be met with the objection that such matters were "inter-office communications," and therefore privileged.

Nevertheless, the witness McCoy candidly stated that his examination of the Sparks records disclosed to him "possible violations" of the Act and regulations (Tr. 391). He did not, he categorically stated, discuss these possible violations with anybody in the Sparks organization, although they were present and available and cooperative, because, he said,

> ". . . as an accountant it is not my function to discuss with registrants their trade practices, their operations. I report to my supervisor and he discusses with the registrant."
> (Tr. 391)

But this record is barren of any evidence of any discussion by any supervisor, or anyone else, with any respondent as to any phase of this investigation.

And, significantly, the witness McCoy did not ask any of the Sparks respondents "to explain these particular exhibits [complainant's exhibits 43 through 75] which are shown in these exhibits." (Tr. 392, lines 2-3) It is possible that the witness said that he did not ask any of the Sparks respondents "to explain these possible violations which are shown in these exhibits," (complainant's exhibits 43 through 75). The sense is the same - he asked no one for any explanation.

The witness McCoy conceded that the exhibits he sponsored in evidence, which relate to the facts appearing in Proposed Findings 31 and 32, do not show any substitution. "As far as when the substitutions occurred would have to be testified to by the persons making the observations," he said (Tr. 393).

The "persons making the observations" appears to have been, among others, John A. Sands, Jr., Livestock Marketing Specialist, District Supervisor, St. Louis National Stock Yards, National Stockyards, Illinois (Tr. 414-15). Mr. Sands has been a District Supervisor for about seven years (Tr. 414), and has been with the Packers and Stockyards branch of the United States Department of Agriculture, since 1950 (Tr. 415). As District Supervisor of the St. Louis National Stock Yards, he is "responsible for the enforcement of the Packers and Stockyards Act in the National Stockyards district which consists of the southern half of Illinois and the eastern half of Missouri." (Tr. 415). As to scale tickets, he considered such a "sacred document," which, among other things, evidences the change of title, which, he stated, occurred "when the livestock is weighed." (Tr. 416)

District Supervisor Sands then testified to the allegations in the complaint alleged to have occurred on September 14, 1955, concerning substitution of hogs sold to Figge & Hutwelker Co. On that date, he said, he observed the weighing of two drafts of hogs to Sparks No. 10. He observed "approximately ten head of red hogs in these two weighings." (Tr. 418)

The next day, District Supervisor Sands observed the hogs which had been weighed to Sparks No. 10 the day before, verified the head count and noted that "there were no red hogs in this group. This led me to suspicion that possibly there had been a switching of hogs in Sparks alley." (Tr. 418, lines 18-20, underscoring added)

Notwithstanding this "suspicion that possibly there had been a switching of hogs in Sparks alley," (underscoring added), District Supervisor Sands made no mention of either the events he observed on September 14 and 15, 1955 or of his "suspicion" to anyone in the Sparks organization, although both he and Harry Sparks have offices in the same building, and see each other frequently every day. Neither did he renew his vigils with any haste. Apparently he saw no need for immediacy. His "suspicion that possibly there had been a switching of hogs in Sparks alley" was so tenuous, so unconvincing, so lacking in persuasiveness, that his next observation "in the hog division at the stockyards with respect to the method of handling hogs belonging to H. L. Sparks & Company" was not made until September 14, 1956, ONE YEAR LATER. (Tr. 418, lines 21-25)

Nevertheless, on this evidence alone, on the testimony of a witness that what he saw on September 14 and 15, 1955, "led" him "to suspicion that possibly there had been a switching of hogs in Sparks alley," the examiner, in Proposed Finding 32, makes a finding of wilful violation. This is not substantial evidence. This is not evidence upon which it should be concluded that registration under the Act, as it read at the time this alleged violation occurred, should be suspended.

Accordingly, it is respectfully submitted that this portion of Proposed Finding 32 be stricken, and, in the alternative, it is suggested that Proposed Finding 32 be amended by striking therefrom all reference to September 14, 1955. This request and suggestion is made on the basis of the contentions urged herein, and on the basis of such contentions that may be urged hereinafter, as well as at the oral argument.

This witness, District Supervisor Sands, testified with respect to the events alleged to have occurred on September 14, 1956 and October 10, 1956, respectively. (Tr. 418, 421). As to the September 14, 1956 transaction, the witness Sands stated that he heard, on September 14, 1956, that Miller Packing Co. had rejected six hogs, and saw five (not six) hogs returned, and five other hogs replace the five rejects. (Tr. 419-420)

This witness also testified to the transaction alleged to have occurred on October 10, 1956. He said he saw the buyer for Krey Packing Company and a Sparks employee observe a draft of hogs previously weighed, and together take several hogs out of another pen and put them in the observed pen. Hogs were then taken out of the observed pen and penned elsewhere. He estimated that five head were involved. (Tr. 429)

The witness Sherman testified to the events which allegedly occurred on September 12, 1956, which are referred to in Proposed Finding 31, under date of September 11, 1956. (Tr. 440) His testimony dutifully corroborated that of his superior, District Supervisor Sands, and, like his supervisor and superior, he maintained a complete and clam-like silence. One facet is striking - the elaborate stake-out of the Sparks' pens. This could have been completely eliminated if, at any time during the year intervening between the first observation and the second, anybody had uttered as much as one syllable to anyone in the Sparks' organization, that this practice, isolated and infrequent as it was, was frowned upon. Apparently and obviously, prosecution and not administration was the motivating purpose.

The basic challenge to these Proposed Findings of Fact is that District Supervisor Sands failed to discharge his duties as District Supervisor of the St. Louis National Stock Yards. He observed the alleged violations, yet said nothing about them to the alleged violators, even after the violations were completed. The evasive answers elicited in his cross-examination demonstrate without doubt the poverty of the evidence upon which these Proposed Findings of Fact rest, and the fact that John A. Sands, Jr., Livestock Marketing Specialist, and District Supervisor, St. Louis National Stock Yards, failed utterly to measure up to the duties of that position. This testimony appears at pages 422-439 of the transcript. No summary could do justice to those recitals. It must be read in its entirety to be understood and evaluated. The Judicial Officer is earnestly requested to do so.

The baselessness of these Proposed Findings of Fact is further disclosed by the fact that the record shows that all the alleged switchings were made after title had passed from respondents to the packer-purchaser. Thus, the witness Sands stated that Tom Guignon, hog-buyer for Krey, the packer-purchaser, requested that certain hogs be substituted, after the hogs had been purchased by Krey the day before. Krey was doing something with his, not Sparks', hogs. The reason for the requested substitutions in this, and in all other instances, are a matter of public knowledge at the stockyard. A hog may appear to be bruised, to be sluggish, or to be in some way unacceptable to the buyer, after purchase. He wants an exchange. If the substitution is made, it is a substitution of equal hogs as to poundage. No one is over-reached. This is not the case of the seller slyly substituting an inferior or lighter hog for a superior or heavier hog. In fact, the seller does not make the substitution. If it is made, it is made by the buyer. Therefore, the act alleged is not the act of the respondents and, therefore, should not have been cited. The circumstances are such, the context within which the act complained of is performed, are not those against which any rule or provision of the statute speaks. In truth and fact, the provisions of the Act and the Rules which are cited as being violated, do not and were never intended to govern a situation where both the buyer and seller, at the request of the buyer, substitute one hog for another, equal for equal. This is a matter of administration, not of prosecution.

Accordingly, for the reasons indicated, and for such other reasons as may be hereinafter stated or urged at the oral argument herein, it is requested that these Proposed Findings be stricken, or, in the alternative, that they be amended to find that the acts complained of are not violations of the Act or the Rules and Regulations, and that, in any event, such acts were not wilful.

In view of the foregoing requests and contentions, it is suggested that a sentence be added at the end of each of these Proposed Findings, reading as follows:

> These facts, in the context in which they appear, do not constitute either violations, or wilful violations of the Act, or Rules and Regulations promulgated thereunder.

EXCEPTIONS TO PROPOSED CONCLUSIONS

AS TO THE CONCLUSION CONCERNING THE ALLEGATIONS THAT WEIGHT WAS "ADDED" AND NOT "GAINED," AS ASSERTED BY RESPONDENTS:

These conclusions are excepted to, for the reason and on the ground, among others, that they are clearly contrary to all the evidence of record. The testimony adduced by the witnesses Gilby, Ischer and McNay, and the exhibits admitted in evidence as requested by respondents, clearly establish that no weight was "added" - that each and every pound of weight invoiced was based on a scale ticket, evidencing either a Buy Weight or a Reweigh Weight, and was a true and accurate weight. It is significant that not one packer has ceased doing business with Midwest as a result of the filing of the complaint. Nor have any of the Sparks entities lost any business as a result of the filing of the complaint. In these circumstances, a careful review of the evidence with respect to this phase of this matter is in order.

At the threshold, it should be noted that complainant has utterly failed to sustain its burden of proof. Complainant's evidence is purely surmise and suspicion, based on faulty procedure, improper bases, and erroneous arithmetic. All that complainant has done is to note that certain invoices, a pitifully small number out of the staggering total listed on complainant's exhibit 1, show that the invoice weight is greater than the purchase weight. This is the initial fault, initially urged by the complainant, and slavishly followed by the examiner.

The succeeding fault is equally, if not more, grievous. The examiner finds and concludes that the testimony of the witness Gilby and the exhibits which he sponsored (respondents' exhibits 4-12), do not demonstrate that the invoice weights were in truth "gained" and not "added" weights, as asserted by respondents. In this, the examiner is in error - and the error stems from his reliance on the evidence adduced by the complainant, and rejecting that offered by the respondents.

Respondents, in their brief to the examiner, included, at page 14, an exhaustive example of the correct manner of determining the "gain" in weight reflected in the invoice weights. This is an analysis of an actual transaction, and one of those reflected in paragraph IV of the complaint, on page 4 thereof. This allegation, which respondents controvert, asserts that on March 29, 1956, Midwest sold 551 hogs to St. Louis Independent Packing Co.; that the purchase weight of these hogs was

141,440 pounds; that the invoice weight was 143,510 pounds, and that the resultant difference (143,510 minus 141,440), 2,070 pounds, is "added" weight. This is error.

Respondents' exhibit 4, sheets 2, 3, and 4, analyzes this transaction, relying on the precise record on which complainant rests (See, e.g., complainant's exhibits 3, 4, 5, and 6). Sheets 3 and 4 of respondents' exhibit 4 shows every item on the memorandum book upon which complainant also relied, pertaining to this March 29, 1956 transaction.

Both complainant and respondent agree that 18 hogs on this invoice originated at Springfield, a posted stockyard. These 18 head were originally a part of three separate drafts, of four hogs (on sheet 3), four and 10 hogs (on sheet 4).

Both complainant and respondents further agree that the remaining 533 hogs involved in this transaction, originated at several country points. All these points and the number of hogs originating at each, are specified on sheets 3 and 4.

The parting of the ways comes only when the respondents continue on, to show the origin of each of the 533 country point hogs. Complainant stops short - and in so doing, commits fatal error.

Respondents show that of the 533 country point hogs, 194 head were a part of larger drafts purchased at country points. These particular purchases, four in number, appear on sheet 2 of respondents' exhibit 4. There is sound reason for this portrayal. For, unless this analysis is made, the gain in weight on the hogs which moved to St. Louis Independent Packing Co. cannot be accurately determined. In fact, unless this procedure is followed, an inaccurate and highly misleading gain in weight is reflected.

Thus, respondents' exhibit 4, sheet 3, shows that 311 hogs (second item) are a part of the 551 country point hogs. All of these 311 hogs came from the country points listed immediately to the right of the 311 figure. It will be noted that 136 hogs are shown in this column as having originated at "Ru" (Rushville), a country point. These 136 hogs, in turn, were a part of an original purchase, at Rushville, of 239 hogs. Therefore, in order to obtain the correct gain in weight on these 136 head, the total sales weight for the entire 239 must be determined. This is simply obtaining the "cost weight."

The correctness of this procedure, and the resultant error realized when this procedure is not followed, is quickly and clearly shown on sheet 2 of respondents' exhibit 4. The first line on sheet 2 shows the purchase of the 239 hogs at Rushville, at a total purchase weight of 51,025 pounds. Of these 239 head, 103 were sorted off, reweighed, and sold to purchasers other than St. Louis Independent. The reweigh weight of these 103 head was 21,760 pounds.

The remaining 136 head were sold to St. Louis Independent. The reweigh weight of these 136 head was 29,875 pounds.

Adding the two reweighs, 21,760 pounds for the 103 head sold to others, and 29,875 pounds for the 136 head sold to St. Louis Independent, gives a total of 51,635 pounds, the reweigh invoice weight of the 239 hogs, as determined by reweighs.

The total buy weight for the 239 head was, as shown on sheet 2 of respondents' exhibit 4, 51,025 pounds. Subtracting this buy weight from the reweigh sales weight, gives a difference of 610 pounds, the total gain in weight on 239 hogs, or about 2.5 pounds per hog.

The complainant, however, having stopped short as above indicated, put this 610 pound gain only to the 136 hogs sold to St. Louis Independent, and not on the entire 239 hogs, where it rightfully belongs. Obviously, the gain per hog is greater when 610 pounds are allocated to 136 hogs, instead of to 239 hogs.

This procedure must be followed in computing the gain per hog on the penultimate figure on the 311 lot on sheet 2, "Go 46" (Golden) which was a part of an original purchase of 91 hogs; in computing the gain per hog in the item "Jax 8" (Jacksonville), which is a part of the 33 lot, and which was a part of an original purchase of 55 hogs, and in computing the correct gain per hog on the final item in the 33 lot "Pa 4" (Palmyra), and the "Pa 4" (Palmyra) item in the 20 lot. Both of these items were a part of the same original purchase at Palmyra, of 90 hogs. The complete analysis of all these items is reflected on sheet 2 of respondents' exhibit 4.

As the witness Gilby testified, these items all appeared on the memorandum book upon which complainant relied. Complainant amplified its summary depiction of this book, as shown on its exhibits 3, 4, 5, and 6. Its fault, however, was in not copying everything, and misinterpreting what it did copy.

The necessary result of complainant's failure completely to analyze the figures it saw and copied is a completely distorted reflection showing gain per hog as much as four times the actual gain. In these circumstances, complainant concluded that the invoice weights were inaccurate - a conclusion that is as false as the premise upon which it was based, and as false as the method by which it was determined.

The underlying and basic fault of this conclusion and Proposed Findings of Fact 19 and 20, from which it flows, is that they are grounded on the erroneous and completely unsubstantiated premise that hogs, as fed and handled by Midwest, cannot gain weight. This is the basic and predetermined conclusion upon which the complaint was prepared, this proceeding instituted, and upon which the examiner made his proposed findings. The findings which reflect this predetermined premise are not based on any evidence, much less substantial evidence. Moreover, all the evidence of record squarely contradicts this predetermination and the resultant findings.

As complainant's proof developed, the pattern was obvious. The invoice weight was greater than the purchase weight. Therefore, the difference was "added weight."

That Midwest, prior to resale, fed and handled its hogs, that the invoice weights were determined by reweights, was ignored both by the complainant and the examiner.

That informed witnesses testified to these facts was ignored.

Testimony which, by law, is entitled to great weight, was swept aside as non-existent.

Carefully prepared and painstakingly explained exhibits, which precisely documented each hog in every transaction, and which proved that in fact no weight was added, was apparently not even read, and if read, was not read understandingly.

The discouraging truth is that these Proposed Findings of Fact disclose that neither the examiner nor the complainant understood the testimony, that, deafened and blinded by the predetermination that hogs cannot gain weight, no one in fact either heard or read the evidence which contradicted this predetermination and gave the lie to complainant's allegations.

It was early realized that the real issue here was this predetermination that hogs cannot gain weight. For that reason, this issue was squarely met, head-on. Respondents did not, as they could have with all propriety, rely on the fact that complainant had not borne its burden of proof. Instead, respondents met this issue with candor and forthrightness, and willingly assumed a burden which was not rightfully theirs.

The basic fact, that hogs fed and handled as the record shows they were in this matter will and do and did gain weight, is supported by a simple but strong fact, that Midwest expended, and continues to expend, large sums for feed. As shown on respondents' exhibit 13, the amounts spent for feed for the years 1954-57, were as follows:

Year	Amount
1954	$48,733.79
1955	52,171.96
1956	67,116.52
1957	47,251.45

The unanswered question - unanswered by either complainant but answered by the respondents - why make these sizable expenditures for feed, if a gain in weight is not realized? If a consequent gain on the scale did not follow the consistent feeding practice, respondents could have relieved itself of this outlay. However, the truth is that weight is gained by the hogs as a result of the feeding and handling, the expenditure for which is shown on respondents' exhibit 13.

The results of the feeding and handling are impressively shown on respondents' exhibits 14, 15 and 16. These exhibits show the average gain in weight per hog for the years 1955, 1956 and 1957. These exhibits speak for themselves and are eloquent. They show that respondents sold almost a half-million hogs per year, and that the average gain per hog for these years ranged from 1.2 pounds to 2.4 pounds per hog - an average gain similar to that reflected on respondents' exhibits 4-12, which reflect the transactions set forth in Proposed Finding of Fact 20. The "logical conclusion," to borrow a phrase from Proposed Finding of Fact 19, is obvious.

Hogs gain weight when fed and handled.

The hogs specifically involved in the transactions involved in this proceeding, those reflected in Proposed Findings of Fact 19 and 20, gained weight.

This gained weight, as determined by reweighs in each and every instance where a weight other than the purchase weight was used (and the use of such purchase weight is perfectly permissible and proper) was the weight invoiced by Midwest to the packer-purchaser.

But respondents do not rely exclusively on their truthful and documented experience urged in reply to the violations alleged in the complaint. More recent experience, experience reflecting a period subsequent to September 8, 1958, when the act was amended to govern transactions at country points, is informative, persuasive, and corroborative. For the year 1959, during which the amended act was in effect, Midwest, on a comparable gross business, realized a net average gain per hog of 3.05 pounds. This is a gain in weight realized under complainant's supervision. The method of doing business was unchanged, and the results were unchanged. A gain in weight - not added weight - was realized.

It is almost superfluous to add that in these circumstances complainant was ill-advised to institute this proceeding, was little better advised to pursue it, and the examiner even less advised in purporting to find violations.

AS TO THE CONCLUSION THAT THE TRANSACTIONS INVOLVING MIDWEST ORDER BUYERS (FINDINGS 9 THROUGH 21) ARE SUBJECT TO THE ACT, AS IT READ PRIOR TO AMENDMENT, SEPTEMBER 2, 1958, PUB. LAW 85-909, 85TH CONG.

This exception raises again the question of jurisdiction, a challenge which has been raised at the threshold and at every stage of this proceeding thereafter. Nevertheless, after argument, hearing and brief, the examiner concluded that jurisdiction must rest on agency - "that Midwest acted as one of the agents of respondents in consummating the transactions." But there is no evidence of agency, and in fact, the complainant did not attempt to prove agency. If anything, complainant relied on identity of the parties, not agency. The examiner, however, concluded, at page 16 of the Recommended Decision,

> "In a word, there is just no issue here of jurisdiction over Midwest Order Buyers as an entity, separate or otherwise."

Identity thus aside, the examiner was forced to conclude that agency was the connecting link, notwithstanding, as noted, that the complainant did not describe Midwest as an agency of the registrant respondents, did not prove agency, and did not rely on agency. The conclusion that Midwest was an agency of the registrant entities was probably as great a surprise to complainant as it was to respondents.

In addition to what has been urged by motion, answer, objection, brief and argument, it is further urged that there has been no commingling of posted yard hogs with country point hogs, either in fact or in law. As to this, the record is clear and convincing.

In every instance involving posted yard hogs, the post yard entity sold the hogs to Midwest Order Buyers pursuant to a scale weighing, evidenced by a scale ticket, and was paid by Midwest.

In every instance, Midwest, in turn, sold the hogs to a packer-purchaser, and was paid therefor. The evidence adduced by complainant as to isolated methods of payment cannot, and should not, override the substantial evidence that the posted yard registrants are separate entities, and that Midwest is likewise a separate entity. Separate tax returns are made, and the Department of Agriculture has recognized the identity of these entities in issuing registrations and in other administrative details.

The trap into which the examiner fell in assuming, without evidence, that there was and is something evil and sinister in the organization of the separate entities, and in their operation. Nothing could be farther from the fact.

This Department issued the several registrations to the posted yard entities.

This Department knew of the existence of Midwest Order Buyers, knew of its functions, and never protested its organization, existence, activity, and never, at any time, informed anyone that it considered Midwest in any way involved in the activities of any of the posted yard entities. In fact, the manner in which the investigation, upon which this proceeding was predicated, was instituted, discloses emphatically that the Department of Agriculture, while fully aware of the establishment, existence, and function of Midwest, at no time ever believed its activities to be subject to the Act.

It is significant that Midwest is now held by the Department to be subject to the registration provisions of the Act, as amended September 2, 1958. If, as concluded here, Midwest is only the agency of a registrant, why is it subject to registration under the Act as amended? The Department cannot hold, at one and the same time, that Midwest is not an entity, but an agency of an entity already registered, and that it is an entity, subject to registration, under the amendment which was sponsored by the Department of Agriculture, for the reason that the Act, prior to amendment, did not cover country points. (House Report No. 1048, 85th Cong., 1st Sess., 5, 6, 8 and 9; Tr. 5-19). Midwest is either one or the other. It cannot, in fact, be both.

Moreover, during the period involved, the activities of Midwest Order Buyers was at all times subject to the Federal Trade Commission (5 U.S.C. Sec. 41, et seq.). The legislative history of the September 2, 1958, amendment is explicit on this point.

Thus, Earl L. Butz, Assistant Secretary of Agriculture, testified before the House Committee on Agriculture, which was considering the legislation which eventually was enacted on September 2, 1958, as follows:

> "Mr. Butz. . . . At the present time these people who operate in interstate commerce on nonposted yards, as I understand it, are subject to the supervision of the Federal Trade Commission.
>
> "As I understand it, the intent of this amendment is to transfer that to the Department of Agriculture.
>
> "The only additional thing that I can see that would be involved might be the registration of those dealers. As I understand it, the Federal Trade Commission does not now require registration." (Hearings, Committee on Agriculture, House of Representatives, 314-15)

Assistant Secretary of Agriculture Butz spoke from knowledge. In a colloquy with Congressman Poage, vice-chairman of the committee, Mr. Butz had this to say concerning jurisdiction over non-posted stockyards:

> "Mr. Butz. . . . Just a case or two to illustrate. At the present time we have authority to regulate trade practices on the posted yards. I think, for example, of an incident that occurred last autumn in a midwestern market where we issued a cease-and-desist order against a buyer on the market, a large buyer on the market.
>
> "We put him off the market. He went out to some non-posted yards. He continues to operate. He is completely outside our jurisdiction. He may or may not be doing the same malpractices which resulted in a cease-and-desist order. That we do not know. We have no way of finding out. We have no way of regulating. (Hearings, Ibid., p. 317)

At another point in the hearings, in the presence of Mr. David M. Pettus, Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, the complainant here, and Charles W. Bucy, Assistant General Counsel, United States Department of Agriculture, the following colloquy ensued between Assistant Secretary of Agriculture and Vice-Chairman Poage:

> "Mr. Poage. Mr. Butz, if I understand it, all this amendment

does is to take jurisdiction of the yards of less than 20,000 feet which is now in the hands of Federal Trade - and I hope the members will get this; everybody has asked it a dozen times - but am I not right in saying that under the present law, all of the yards of less than 20,000 square feet - and that is about half an acre - all of the yards of less than 20,000 square feet are under the exclusive jurisdiction of the Federal Trade Commission.

"That is right, is it not?

"Mr. Butz. Yes, if they are in interstate commerce, they are.

"Mr. Poage. They are not under anybody's jurisdiction if they are not?

"Mr. Butz. That is right.

"Mr. Poage. You have no jurisdiction of a yard under 20,000 square feet today do you?

"Mr. Butz. That is correct.

"Mr. Poage. Whethere (sic) it is in interstate commerce or on the moon, you have no jurisdiction of a yard of less than 20,000 square feet do you?

"Mr. Butz. No, sir.

"Mr. Poage. The Federal Trade Commission does have jurisdiction over them?

"Mr. Butz. Yes, sir." (Hearings, Ibid., 316)

Earl W. Kintner, Esq., then general counsel and now chairman of the Federal Trade Commission, testified at this hearing on the question of jurisdiction, as follows:

> "The Chairman. . . . If a violation of the law should occur on an (sic) nonposted stockyard, above or below 20,000 feet, would your agency have any responsibility in connection with the violation occurring on those yards?
>
> "Mr. Kintner. We would, sir, provided interstate commerce were involved . . ." (Hearings, Ibid., 233)

It is abundantly clear, therefore, that the Act, prior to its amendment on September 2, 1958, did not regulate the activities of Midwest

Order Buyers. Clearly, the Federal Trade Commission was charged with this function. Both the Department of Agriculture and the Federal Trade Commission acknowledged the existence of this jurisdiction. The jurisdiction of the Department of Agriculture to issue this complaint in October, 1957, was clearly denied by that Department and the Federal Trade Commission in July, 1957. This complaint is aptly described by the following statement which appears in House Report No. 1048, 85th Congress, 1st Session, at page 6:

> "It appeared to the committee that most of the problems in connection with the Packers and Stockyards Act arise very simply from the fact that we are undertaking to apply to 1957 commercial and business conditions a law which was designed to be applied to the conditions prevailing in 1921."

Accordingly, on the basis of the record heretofore made, the exception taken herein, and such other exceptions as may be urged herein and at the oral argument hereon, it is submitted that Midwest Order Buyers, as a matter of fact and as a matter of law, were not and are not subject to the Act, prior to its amendment on September 2, 1958, and that all allegations in respect thereof appearing in the complaint be stricken, and that all Proposed Findings of Fact and Conclusions with respect thereto, appearing in the Recommended Decision, be reversed.

AS TO THE CONCLUSIONS IN RESPECT OF THE INVESTIGATION:

The record, as a whole, lays bare an inexcusable invasion of respondents' constitutional rights and a concomitant inexcusable disregard of the most rudimentary rules of fair play. This record shows that complainant abused the trust and reliance which respondents gave to the representative of their government. Not only was this trust and reliance abused, but the fruits resulting from this abuse were distorted and twisted to spell out unwarranted violations of the Act and regulations. It should be noted here that respondents do not cry "foul" in order to suppress evidence which disclosed violations, on the theory that violative acts were improperly brought to light. This exception is based on the fact that the investigation was improperly and unconstitutionally conducted, over objections which would be tenable no matter what facts such investigation purportedly developed. Thus, it is important that this exception be read in context -- as an exception to the manner in which the investigation was initiated and conducted, without regard to the facts supposedly resulting from such investigation. The results of the investigation, whether favoring respondents or supporting complainant, are irrelevant. Such facts, so sired, are void ab initio. Without this matrix, then, we read the record.

The witness Sherman, who testified on this phase of the case, began his testimony with a recital of the "facts" as he found them, and sponsored complainant's exhibits 1 and 2 (Tr. 88, 102, and 167). He said nothing as to the circumstances which prompted the investigation. This development was revealed only on cross-examination.

The responses of the witness Sherman to questions addressed to him on cross-examination are illuminating. For example, after much prodding and probing, as to the circumstances surrounding the initiation of the investigation, this colloquy occurred:

> "Q Did anyone ever mention to you that there was an understanding with the respondents as to what records you were permitted to consult?
>
> "A Not that I know of. I believe Mr. Hopper had obtained consent prior to Mr. Smith's going there and Mr. McCoy.
>
> "Q You believe now that Mr. Hopper had obtained consent before Mr. Smith and Mr. McCoy went there, is that right?
>
> "A That's correct.
>
> "Q Upon what do you base that belief?
>
> "A I believe Mr. Hopper sent us a letter.
>
> "Q Mr. Hopper sent you a letter?
>
> "A Stating that he had requested the permission from Mr. Sparks.
>
> "Q Stating he had gotten permission from Mr. Sparks?
>
> "A Yes, sir." (Tr. 247)

This letter (respondents' exhibit 2 [Tr. 277]) which this witness said was the "permission," the "consent," was the letter written by G. H. Hopper, District Supervisor, Packers & Stockyards Branch, at Chicago, with copies to D. L. Bowman, of the Washington Office, and J. A. Sands, Supervisor of the National Stockyards, in which a request is made, not a consent given. And, on January 28, 1957, subsequent to the letter of December 17, 1956, and respondent's reply to this letter, dated January 14, 1957, the witness Sherman appeared at Chapin, Ill., to conduct the investigation. This chronology is significant.

The witness Sherman testified on cross-examination that "Mr. Bowman . . . was in our St. Louis office sometime prior to January 28, shortly before . . . and he asked me to go to Chapin and make a trade practice audit of the books and records there as it pertained to purchases and sales from the posted stockyards of Springfield, Peoria and Bushnell" (Tr. 239). This is the same Mr. Bowman to whom Mr. Hopper had addressed a copy of his letter of December 17, 1956. This order to Mr. Sherman apparently originated with Mr. Lee Sinclair of the Washington office. (Tr. 132-133)

The witness Sherman was evasive as to whether there had been a reply to the letter of December 17, 1956 (Tr. 249-250) but finally concluded that he had not seen the reply (Tr. 251). The reply to this letter, dated January 14, 1957, and received by Mr. Hopper, the addressee, on January 17, 1957, was admitted in evidence as respondents' exhibit 3 (Tr. 467; Note: Tr. 467, line 13 "April" should be "January").

Thus, prior to the initiation of Sherman's investigation, an objection had been made to the investigation as proposed in the letter of December 17, 1956, and that objection was formalized, after informal discussions, by a letter dated January 14, 1957, which was received by Mr. Hopper, in his official capacity on January 17, 1957, well in advance of the time when Mr. Bowman directed Mr. Sherman to go to Chapin. This is the record.

Since no objection had been voiced by Hopper to the letter of January 14, 1957, it was assumed that the conditions laid down in that letter were acceptable. It was on these terms and on this understanding that the doors and books were open to complainant. If complainant disagreed with these conditions, it should have communicated this disagreement to Harry L. Sparks & Co. and subpoenaed the records. Confronted with a subpoena, an opportunity would have been afforded to challenge and seek a judicial determination of the rights involved. This complainant did not do.

Moreover, complainant did not subpoena the books and records of respondents for production at the hearing (Tr. 67), although challenged by respondents to do so (Tr. 63-6). Obviously, complainant did not dare risk a direct challenge to its bald and bold invasion of respondents' rights.

The examiner put his seal of approval on this outrageous procedure by admitting complainant's exhibit 1 and 2 over respondents' strenuous objections (Tr. 70-75), which the examiner overruled (Tr. 75-6). This ruling, it is submitted, constitutes reversible error.

In sum, the record is clear that respondents challenged complainant's visitorial powers at the outset. Complainant refused to meet this challenge. Slyly, it manipulated its staff to bury the challenge. Simple justice required a straight-forward answer to the letter of January 14, 1957. Simple justice required the presence in the hearing room of the books and records relied upon by complainant. Berthold-Jennings Lumber Co., et al. v. St. Louis, I. M. & S. Ry. Co., et al., 80F. (2) 32, 44, 8th Cir., 135, cert. den. 297 U.S. 715. None of these simple and required procedures were followed.

It follows that the investigation at the threshold was so tainted with illegality that respondents were denied the full and fair hearing required by the Act, the Administrative Procedure Act and the due process clause of the 5th Amendment. The failure to accord respondents these constitutional rights constitutes reversible error and dictates that the recommended decision be reversed.

Accordingly, for the reasons stated, and for such others as may be urged on oral argument, exception is taken to this conclusion.

AS TO THE CONCLUSIONS IN RESPECT OF THE AFFIDAVIT:

On Monday, January 28, 1957, the witness Sherman appeared in Chapin, Illinois. On Friday, February 1, 1957, he obtained the so-called affidavit from George J. Ischer, Jr. Thus, Sherman, at the beginning, laid down the pattern of his investigation. He sought only to verify what he wanted to believe - not what he found to be true. It is significant that Ischer contradicted the wording of the affidavit, and the physical facts surrounding its making, on both direct and cross-examination (Tr. 794-900). And the witness Gilby also gave the lie to the conclusions that complainant drew and the examiner found that this affidavit was evidence that weight was "added."

The only phrase any way remotely touching on this possibility is a clause buried in the affidavit which reads "at other times they are weights obtained by adding a certain amount to the original buy weights so as to take care of the shrink." (complainant's exhibit 42) That is not the charge. That is not the violation. There is no allegation that "weight was added to take care of the shrink." This practice, if followed, would only restore the weight to the original purchase weight -- not add to the purchase weight.

There is, however, a clear meaning to this phrase. It simply means that in certain instances, as dealers, the buy weight was used as the sell weight -- a practice which is perfectly permissible. However, Sherman was not looking for the truth -- for it would have set the respondents free. He was looking for conviction. To that end, he bent his investigation and distorted his findings. The examiner followed the same tortuous path.

Accordingly, exception is taken to this conclusion for the reasons stated and for such other reasons that may be urged on oral argument.

AS TO WILFULNESS:

This record is bare of a wilful act upon which disciplinary action may be based. Instead, it is replete with repeated requests for advice and information (e.g., respondents' exhibit 2). Indeed, if wilfulness is involved, it is the complainant, and not the respondents, who have acted wilfully.

John A. Sands, Jr., Supervisor of the National Stock Yards, acted wilfully, when he idly stood by and did nothing when he had a "possible suspicion" that hogs had been substituted, and waited for a year to verify or allay that suspicion.

John A. Sands, Jr., acted wilfully when he saw what he later testified was a substitution of hogs, and did nothing about it, either to stop the alleged violation, to prevent the substitution, to stop the substituted hogs from moving off the stockyards, or to warn the participants that their acts were improper.

Donald Bowman and John A. Sands, Jr., acted wilfully when they concealed the challenge to the jurisdiction of the Branch in January, 1957, and took action to which they knew there was objection.

Earl Sherman acted wilfully when he failed to conduct his investigation fairly and impartially, when he deliberately avoided making inquiry of those who knew, and when he refused to ascertain the facts.

The Packers & Stockyards Branch acted wilfully in that it has substituted prosecution for administration; in that it has abdicated its function as an administrative agency and assumed the role of a prosecutive agency; in that it has deprived the persons subject to its jurisdiction of an administrative agency, devoted to the exercise of the functions delegated by Congress, and in that it has failed to observe the provisions of the Administrative Procedure Act in finding wilful that which is not wilful, and seizing upon that ex parte finding as ground for failing to give respondents an opportunity to achieve compliance.

Respondents have no such invoice of wilfulness. Complainant cannot point to one instance in which respondents performed an act, or omitted to act or do an act, for the purpose of doing what the statute forbade. Respondents have done nothing which was either unique, concealed, or unusual. There was never a reason for respondents to believe that any action of theirs was suspect or violative. In any event, a word of caution or suggestion would have been sufficient to change or adjust any practice complained of. No such word or suggestion was ever made.

Accordingly, for the reasons stated, and for such other reasons as may be urged on oral argument, exception is taken to those portions of the Recommended Decision which purport to conclude that respondents acted wilfully.

III. CONCLUSION

On the basis of the exceptions herein, and the record, it is respectfully submitted that the Recommended Decision herein be reversed, and that the Recommended Order herein be denied.

IV. REQUEST FOR ORAL ARGUMENT

Respondents request oral argument herein on the Recommended Decision, the Proposed Findings of Fact, the Proposed Conclusions of Law, and the Recommended Order.

Respectfully submitted,
BEN IVAN MELNICOFF

* * *

Attorney for Respondents

March 11, 1960

ADDENDUM 1

I, the undersigned have been a Hog Counter here for the National Stock Yards at National City, Illinois for several years. My job is to count the hogs that come over to the shipping division for the trains and trucks. The hog driver who brings the shippers hogs over here has a slip with the number of hogs on a ticket, given to him by the counter at the scale that he comes from, generally scale #16. If our count does not correspond with the ticket we are supposed to count the hogs over and send the correct count back by the driver. Most of the time we do not have time to recount right away as they are put in separate pens, and we have to count these same hogs out of said pen into cars or trucks. Many times the hogs were counted wrong at the scale and we try to call the seller, such as Sparks or others, and as the scale counter has left for the day, we do not bother to go to the Stock Yard office and change the count on the original ticket. This has been a practice for many years here at the yards.

Signed: /s/ William Heinrich

DECISION AND ORDER

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.), instituted by a complaint filed October 10, 1957, by the Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture. The complaint charges Harry Lee Sparks and Rex Wanda Sparks with (1) selling hogs at false weights and in connection with such sales issuing invoices and scale tickets to packers containing false weights, (2) making alterations in copies of scale tickets retained in their records and billing purchasers of hogs on the basis of such altered scale tickets, and (3) substituting hogs which had not been weighed for hogs in drafts which had been weighed and billing the purchasers on the basis of weights obtained prior to such substitution, in wilful violation of the act and the regulations issued thereunder (9 CFR 201.1 et seq.). Three paragraphs of the complaint charging additional violations were dismissed on complainant's motion at the oral hearing herein.

After extensions of time to file an answer and the denial of respondents' motion for a bill of particulars, respondents filed an answer January 9, 1958, in which they denied the allegations of violations of the act set forth in the complaint and requested an oral hearing. A hearing was held April 14-16 and 20-24, 1959, in St. Louis, Missouri, before Jack W. Bain, Hearing Examiner, Office of Hearing Examiners, United States Department of Agriculture. Lowell E. Miller, Office of the General Counsel, United States Department of Agriculture, represented complainant and Ben Ivan Melnicoff, Attorney at Law, Washington, D. C., represented respondents. Four witnesses testified on behalf of complainant and 80 exhibits were introduced into evidence by complainant. Three witnesses testified on behalf of respondents and they introduced 17 exhibits into evidence. After the hearing, the parties filed briefs.

On January 18, 1960, the hearing examiner filed a report containing proposed findings of fact and conclusions and recommending that respondents be found to have violated the act as charged. The examiner further recommended that respondents be ordered to cease and desist from the unlawful practices found in his report and to keep accounts, records and memoranda which fully and correctly disclose all transactions involved in their business and that respondents' registration under the act be suspended for a period of two years. Respondents filed exceptions to the hearing examiner's report and oral argument was held before the Judicial Officer May 9, 1960.

The issues are discussed under the heading "Conclusions." It would be helpful, we think, however, to outline at this point the background of the allegations of the complaint dealing with the invoicing of packers for hogs purchased at false weights. Respondents (in addition to operating as hog dealers registered under the act under the name of H. L. Sparks and Company at the St. Louis National Stock Yards, National Stockyards, Illinois, and the Mississippi Valley Stock Yards, St. Louis, Missouri) were registered under the act to do business as a livestock market agency and dealer at the Bushnell, Illinois, Stock Yards, under the name of H. L. Sparks & Company of Bushnell, at the Union Stock Yards, Peoria, Illinois, as H. L. Sparks & Company of Peoria, and at the Springfield Stock Yards, Springfield, Illinois, as H. L. Sparks & Company of Springfield. All these stockyards were posted as subject to the jurisdiction of the act. In addition, under the name of Midwest Order Buyers, respondents engaged in the business of a hog dealer at Chapin, Illinois, buying hogs at country points not posted as stockyards subject to the jurisdiction of the act at the times of the transactions involved.[1]

Purchase orders for hogs were received by H. L. Sparks and Company, National Stockyards, Illinois. Orders not to be filled by the hog purchases made by H. L. Sparks and Company in the St. Louis market were given over the telephone by Harry Sparks to the office of Midwest Order Buyers, Chapin, Illinois, and hogs purchased at the nonposted country points and at the Bushnell, Springfield and Peoria posted stockyards were then applied to the purchase orders.

---

[1] On September 2, 1958, subsequent to the events in issue here, section 312(a) of the act was amended to remove the provision that unfair practices, etc., occur at "stockyards" posted under the act. Public Law 85-909 (72 Stat. 1749).

The charges of false weights concern sales to packers of hogs in lots made up of hogs purchased by respondents both at nonposted country points and at posted stockyards. Respondents claim that there is no jurisdiction over Midwest Order Buyers, a business entity not doing business at a posted stockyard, or over the sales in question because these did not take place at a posted stockyard. On the merits, respondents argue that the evidence shows that the hogs from posted stockyards were sold at their purchase weights and that the excesses of sales weights over purchase weights were in connection only with the hogs from nonposted points and represent "gain" in weight as revealed by "reweighs" of the hogs after the purchase weighings.

Findings of Fact

1. The St. Louis National Stock Yards, National Stockyards, Illinois, the Bushnell Stock Yards, Bushnell, Illinois, the Mississippi Valley Stock Yards, St. Louis, Missouri, the Springfield Stock Yards, Springfield, Illinois, and the Union Stock Yards, Peoria, Illinois, are and were at all times material herein posted stockyards subject to the provisions of the act.

2. Respondents are individuals, Harry Lee Sparks and his wife, Rex Wanda Sparks. Respondents' principal business was during the period involved the purchasing of hogs on a dealer basis at posted stockyards and buying stations and the reselling of such hogs to packers located throughout the country. Respondents, as partners, are registered with the Secretary under the act, registration No. 13412, and at all times material herein were so registered to operate as follows:

(a) as a dealer to buy and sell swine for their own account at the St. Louis National Stock Yards, National Stockyards, Illinois, and the Mississippi Valley Stock Yards, St. Louis, Missouri, under the name H. L. Sparks and Company;

(b) as a market agency to buy cattle, sheep and swine on a commission basis and as a dealer to buy and sell cattle, sheep and swine for their own account at the Bushnell Stock Yards, Bushnell, Illinois, under the name H. L. Sparks & Company of Bushnell;

(c) as a market agency to buy swine on a commission basis and as a dealer to buy and sell swine for their own account at the Union Stock Yards, Peoria, Illinois, under the name H. L. Sparks & Company of Peoria; and

(d) until November 26, 1956, as a market agency to buy swine on a commission basis and as a dealer to buy and sell swine for their own account at the Springfield Stock Yards, Springfield, Illinois, under the name H. L. Sparks & Company of Springfield.

Respondents also did business as Midwest Order Buyers, a nonregistered partnership with its principal office located at Chapin, Illinois.

3. In the usual course of business, respondent Harry Lee Sparks, at the office of H. L. Sparks and Company at the St. Louis National Stock Yards, received orders for hogs from packers. In addition to hog purchases at the St. Louis National Stock Yards to fill orders respondents bought hogs at the posted stockyards at Bushnell, Peoria and Springfield and at country buying points maintained by respondents under the name Midwest Order Buyers. Harry Lee Sparks called the Midwest office, located at Chapin, daily and instructed George J. Ischer, Jr., where the hogs that had been purchased were to go. Ischer then gave respondents' employees at each buying point, including the posted stockyards at Bushnell, Springfield and Peoria, instructions as to where each lot of purchased hogs was to be shipped. Respondents arranged for the transportation of the hogs to the packer-purchasers. Subsequently, Ischer prepared or had prepared invoices to be mailed to the purchasers whose orders had been filled. Payment by the purchasers was made to Midwest at the offices of H. L. Sparks and Company, National Stockyards, Illinois, where the Midwest bank account was kept. The sales and financial records of respondents' operation at Bushnell, Peoria and Springfield were kept and maintained at the office at Chapin, Illinois.

4. Respondents sold hogs to various packers at false and incorrect weights in excess of the true and correct weights in the following transactions:

Date	Sold To	Number of Hogs	Purchase Weight (pounds)	Invoice Weight (pounds)	Weight Added (pounds)
1955					
Dec. 1	Swift & Co.	488	144,245	146,005	1,760
Dec. 10	"	835	214,080	216,390	2,310
Dec. 12	"	183	55,860	57,305	1,445
Dec. 14	Val Decker	404	89,340	90,340	1,000
Dec. 17	Swift & Co.	271	103,705	105,615	1,910
Dec. 19	Home Pkg. Co.	595	145,625	147,340	1,715
Dec. 21	Kingan	236	59,105	60,300	1,195
Dec. 26	Swift & Co.	403	112,205	113,800	1,595
Dec. 27	Home Pkg. Co.	256	56,990	57,490	500
Dec. 28	Swift & Co.	425	114,900	116,240	1,340
1956					
Jan. 10	Home Pkg. Co.	663	142,755	144,710	1,955
Jan. 21	Swift & Co.	581	167,490	169,490	2,000
Jan. 27) Jan. 28)	"	861	212,965	215,525	2,560
Feb. 3	St. Louis Ind.	135	53,750	55,300	1,550
Feb. 11	"	130	54,250	55,430	1,180
Feb. 13	Home Pkg. Co.	688	144,310	147,740	3,430
Feb. 16	"	643	137,605	140,195	2,590
Mar. 7	Hunter Pkg. Co.	639	136,135	137,950	1,815
Mar. 12	Home Pkg. Co.	569	108,460	110,360	1,900
Mar. 16	John Morrell	326	103,370	105,085	1,715
Mar. 20	"	600	143,700	145,070	1,270
Mar. 20	Home Pkg. Co.	440	82,215	83,515	1,300
Mar. 27	Swift & Co.	351	80,870	81,870	1,000
Mar. 29	St. Louis Ind.	551	141,440	143,510	2,070
Apr. 9	Home Pkg. Co.	510	104,585	106,085	1,500
Apr. 16	Swift & Co.	343	81,555	82,735	1,180
Apr. 17	Home Pkg. Co.	576	112,625	114,425	1,800
Apr. 28	"	396	74,355	75,905	1,550
May 1	"	285	53,330	54,560	1,230
May 9	"	530	107,315	108,815	1,500
May 11	Swift & Co.	194	79,365	80,365	1,000
May 22	"	400	144,260	145,460	1,200
June 4	J. Morrell	332	134,020	135,365	1,345
June 12	Kingan Pkg. Co.	734	196,825	198,325	1,500
June 22	Oscar Mayer	165	55,030	55,490	460
July 21	Kingan	565	135,985	136,985	1,000
Aug. 13	Hunter Pkg. Co.	662	138,750	139,750	1,000
Aug. 22	"	648	142,890	143,955	1,065
Aug. 29	Hunter Pkg. Co.	747	165,105	165,980	875
Sep. 6	"	869	194,100	196,670	2,570
Sep. 7	Heil Pkg. Co.	744	168,200	169,700	1,500
Sep. 15	Kingan & Co.	994	220,290	222,290	2,000
Oct. 4	Swift & Co.	96	32,620	33,620	1,000
Oct. 20	Heil Pkg. Co.	353	80,325	81,400	1,075
1957					
Jan. 5	Swift & Co.	682	217,920	219,420	1,500
Jan. 31	St. Louis Ind.	256	57,000	57,950	950

In each of these transactions the shipments were made up of hogs purchased by respondents at Bushnell, Peoria or Springfield, together with hogs purchased by respondents at country buying stations. Respondents received and filled the packer order in each of these transactions in the manner described in Finding of Fact 3. The invoice or bill sent to the packer by respondents was prepared at the Midwest office at Chapin, Illinois, and a copy of the bill or invoice was retained in the Midwest files. The weight figure shown on each bill or invoice was not based upon any reweighing of the hogs. Payments for the hogs were remitted to respondents at St. Louis National Stock Yards.

5. Respondents, upon request, furnished scale tickets to packer-purchasers in support of weights shown on invoices to such customers. The Heil Packing Company and the Hunter Packing Company, both of St. Louis, Missouri, requested such scale tickets. Respondents furnished these two packer-purchasers with scale tickets in support of the weight figures shown on the invoices rendered by respondents to them for hogs purchased in seven of the transactions set forth in Finding of Fact 4, that is, the transactions of September 7 and October 20, 1956, with Heil Packing Company and the transactions of March 7, August 13, 22 and 29, and September 6, 1956, with Hunter Packing Company. In each of these transactions, the scale tickets were attached to the invoice to the purchaser. The scale tickets in each instance purported to show that different drafts of hogs had been weighed at various weights, the total number of hogs and total weight equalling the total number and weight shown on the invoice. The hogs had not been weighed at the weights shown on the scale tickets or at the total weight shown on the invoice. The scale tickets were printed by employees of respondents upon a scale owned by respondents at Chapin although the hogs had not been purchased at, or shipped from, Chapin and no hogs were on the scale at the time the scale tickets were printed. These scale tickets, as well as the invoices issued by respondents to the purchasers in these transactions, were made a part of the accounts and records of the purchasers, packers subject to the provisions of the act.

6. Hogs are weighed at the St. Louis National Stock Yards on a scale operated by a weighmaster employed by the stockyard company. An original and two copies of a scale ticket are made when a lot of hogs is weighed. Each scale ticket and the two copies bear the same serial number. At the time of weighing, the weighmaster writes the number of head weighed and stamps the weight on the original, which weight is also impressed on the copies. The original scale ticket is retained by the stockyard company, one copy is issued to the seller or selling agency and the other copy is issued to the buyer. Settlement between buyer and seller is made upon the basis of the weight shown on the scale ticket.

7. (a) On October 25, 1954, respondents purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 515886H, a copy of which was delivered to respondents, showing the weighing of 144 hogs at a total weight of 20,860 pounds. Respondents changed the head count on the copy of the scale ticket retained in their records from 144 to 138. No similar change was made on the scale ticket retained by the stockyard company. Respondents subsequently sold the hogs to Chas. Miller & Company and billed this purchaser on the basis of the altered head count and the original weight.

(b) On July 28, 1955, respondents purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 853819H, a copy of which was delivered to respondents, showing the weighing of 155 hogs at a total weight of 25,530 pounds. Respondents changed the head count on the copy of the scale ticket retained in their records from 155 to 154. No similar change was made on the scale ticket retained by the stockyard company. Respondents subsequently sold the hogs to Avera Packing Company and billed this purchaser on the basis of the altered head count and the original weight.

(c) On November 10, 1955, respondents purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 856389H, a copy of which was delivered to respondents, showing the weighing of 25 hogs at a total weight of 6,500 pounds. Respondents changed the head count on the copy of the scale ticket retained in their records from 25 to 26. No similar change was made on the scale ticket retained by the stockyard company. Respondents subsequently sold the hogs to Bidermann & Moss, Inc., and billed this purchaser on the basis of the altered head count and the original weight.

(d) On April 24, 1956, respondents purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 45083H, a copy of which was delivered to respondents, showing the weighing of 59 hogs at a total weight of 12,060 pounds. Respondents changed the head count on the copy of the scale ticket retained in their records from 59 to 60. No similar change was made on the scale ticket retained by the stockyard company. Respondents subsequently sold the hogs to I. Klayman & Company and billed this purchaser on the basis of the altered head count and the original weight.

8. On October 15, 1951, an order consented to by respondents was issued requiring respondents to keep accounts, records and memoranda which fully and correctly disclose all transactions involved in their business and to cease and desist from engaging in the unfair, unjustly discriminatory and deceptive practices and devices described in the Findings of Fact of such order. See In re H. L. Sparks and Rex Wanda Sparks, partners, d/b/a H. L. Sparks and Company, 10 A.D. 1324. Finding of Fact 3 of the October 15, 1951, order reads as follows:

> "3. Respondents, at divers times and in numerous transactions during the period from February 28 to August 31, 1950, altered scale tickets issued in connection with purchases by the respondents of hogs at the stockyard on a dealer basis by changing the head count or the date, or both, shown thereon; resold such hogs to various customers; and used such altered scale tickets as the basis for bills or invoices furnished the customers for such hogs."

9. (a) On January 6, 1954, respondent purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 330605H, a copy of which was delivered to respondents, showing the weighing of 60 hogs at a total weight of 9,040 pounds.

Respondents made entries on the copy of the scale ticket retained in their records representing that three hogs had been weighed at a weight of 390 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents deducted three hogs weighing 390 pounds from the number of hogs and weight shown on the scale ticket and billed the purchaser for 57 hogs weighing 8,650 pounds.

(b) On June 8, 1954, respondents purchased a lot of hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 406772H, a copy of which was delivered to respondents, showing the weighing of 121 hogs at a total weight of 27,945 pounds. Respondents made entries on the copy of the scale ticket retained in their records representing that 25 hogs had been weighed at a weight of 6,250 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents deducted 25 hogs weighing 6,250 pounds from the number of hogs and weight shown on the scale ticket and billed the purchaser of the hogs for 96 hogs weighing 21,695 pounds.

(c) On January 19, 1955, respondents purchased hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 761302H, a copy of which was delivered to respondents, showing the weighing of 83 hogs at a total weight of 9,255 pounds. Respondents made entries on the copy of the scale ticket retained in their records representing that three hogs had been weighed at a weight of 300 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents deducted three hogs weighing 300 pounds from the number of hogs and weight shown on the scale ticket and billed the purchaser of the hogs for 80 hogs weighing 8,955 pounds.

(d) On July 13, 1955, respondents purchased hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 880822H, a copy of which was delivered to respondents, showing the weighing of 27 hogs at a total weight of 2,875 pounds. Respondents made entries on the copy of the scale ticket retained in their records representing that 15 hogs had been weighed at a weight of 1,615 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents deducted 15 hogs weighing 1,615 pounds from the number of hogs and weight shown on the scale ticket and billed the purchaser of the hogs for 12 hogs weighing 1,260 pounds.

(e) On July 9, 1954, respondents purchased hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 512432H, a copy of which was delivered to respondents, showing the weighing of 20 hogs at a total weight of 3,955 pounds. Respondents made entries on the copy of the scale ticket retained in their records representing that one hog had been weighed at a weight of 250 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents added one hog weighing 250 pounds to the number of hogs and weight shown on the scale ticket and billed the purchaser of the hogs for 21 hogs weighing 4,205 pounds.

(f) On November 2, 1954, respondents purchased hogs at the St. Louis National Stock Yards. The stockyard company issued scale ticket No. 588615H, a copy of which was delivered to respondents, showing the weighing of six hogs at a weight of 530 pounds and the weighing of one hog at 390 pounds. Respondents made entries on the copy of the scale ticket retained in their records representing that one additional hog had been weighed at a weight of 500 pounds. There was no weighing transaction at the stockyard to support such entries. Respondents subsequently sold the hogs to Belvedere Packing Company and billed this purchaser for six hogs weighing 530 pounds, one hog weighing 390 pounds, and one hog weighing 500 pounds.

10. On September 11, 1956, respondents sold hogs at the St. Louis National Stock Yards to Krey Packing Company, St. Louis, Missouri. The hogs had been weighed to respondents in three separate drafts of 75, 87, and 63 hogs. Following the weighing of the hogs, each draft was penned in a separate pen assigned to respondents at the stockyard. While the hogs were being held in the pens, respondents substituted in each lot of hogs one hog which had not been weighed for one of the hogs which had been weighed. The three lots were delivered to the packing company without reweighing, and the company was billed by

respondents upon the basis of the weights obtained at the time the hogs were weighed to respondents.

Similar transactions in which respondents substituted hogs which had not been weighed for hogs in drafts which had been weighed and billed the purchaser on the basis of weights obtained prior to the substitution are as follows:

Date	No. Hogs	Weight	No. Hogs Substituted	Sold to
9-14-55	6	750	Exact no. unkown	Figge & Hutwelker Co.
	6	705	"	"
	46	8,755	"	"
9-13-56	168	25,430	5	Charles Miller & Co.
10-10-56	85	15,175	5	Krey Packing Company

Conclusions

I

As shown by the Findings of Fact, respondent Harry Lee Sparks, at the office of H. L. Sparks and Company located at the St. Louis National Stock Yards, National Stockyards, Illinois, received orders for hogs from packers, many of whom were located at the same stockyard. To meet these orders, hogs were purchased by respondents not only at the St. Louis National Stock Yards but at several country points and at three additional posted stockyards, the Bushnell Stock Yards, Bushnell, Illinois, the Springfield Stock Yards, Springfield, Illinois, and the Union Stock Yards, Peoria, Illinois. Respondents' employees at the country points and the three stockyards, after the day's purchases, reported the number, type, weight and price of hogs purchased that day to the office of Midwest Order Buyers, Chapin, Illinois, where this information was recorded in a workbook. Harry Lee Sparks called the Midwest office daily and informed or directed George J. Ischer, Jr., manager of Midwest, where the hogs that had been purchased were to be shipped, that is, the hogs to be appropriated to each order placed by packers. Subsequently, Ischer prepared invoices to the purchasers whose orders had been thereby filled. Payment by the purchasers was made by check to Midwest at the office of H. L. Sparks and Company on the St. Louis stockyards since the Midwest bank account was kept at National Stockyards, Illinois.

These operations were carried out through several so-called "entities." The respondents, Harry Lee Sparks and his wife, Rex Wanda Sparks, traded under five partnership names in their business as hog dealers with Harry Lee Sparks as the active partner. They operated as H. L. Sparks and Company at the St. Louis National Stock Yards and at the Mississippi Valley Stock Yards, and added to this name the words "of Bushnell," "of Springfield" and "of Peoria" for their dealer activities at the posted stockyards located at such cities in Illinois and substituted an ampersand for "and" in the latter three names. In addition, hog purchases at country points were made under the name of Midwest Order Buyers and packers were billed by this "entity." The sales and financial records of the Sparks companies other than H. L. Sparks and Company were maintained at the Midwest office in Chapin, Illinois. The first four companies are listed on respondents' registration No. 13412 under the act and Midwest is not so listed (see Finding of Fact 2).

The confusion present in the record results in part from the various names under which respondents do business and their contention that each company is a separate legal entity. Respondents then reason from this contention that, for example, H. L. Sparks & Company of Bushnell sells the hogs purchased to fill orders received by Harry Lee Sparks to Midwest Order Buyers which, in turn, sells the hogs to the packer-purchasers. Respondents in effect are contending that the various Sparks partnerships are legal entities separate and distinct from the individual partners and from each other. Such is not the case generally under the law of Illinois. Lehman v. Napier, 101 F.Supp. 313, 314 (S.D. Iowa 1951); Gerut v. Poe, 11 F.R.D. 281, 283 (N.D. Ill. 1951); Western Mut. Fire Ins. Co. v. Lamson Bros. & Co., 42 F.Supp. 1007 (S.D. Iowa 1941); Lewis v. West Side Trust & Savings Bank, 377 Ill. 384, 36 N.E. 2d 573 (1941); 42 Ill. Law Rev. 72, 73 (1947). But cf. People v. Zangain, 301 Ill. 299, 133 N.E. 783, 785-86 (1922). Moreover, even though partnerships have been regarded as possessing some of the attributes of separate entities for certain limited purposes such as amenability to suit or sanction (cf. United States v. A&P Trucking Company, 358 U.S. 121 (1958); Evans Bros. Packing Co. v. United States, 203 F.2d 504, 509, (9th Cir. 1953)),[2] partnerships have not been recognized under the common law as artificial persons in the sense that a corporation is so recognized. See e.g., Helvering v. Smith, 90 F.2d 590 (2d Cir. 1937); Randolph Products Co. v. Merring, 176 F.2d 190 (3d Cir. 1949); Koons v. Kaiser, 91 F.Supp. 511, 516 (S.D. N.Y. 1950), appeal dismissed, 187 F.2d 1023 (2d Cir. 1950), cert. denied, 340 U.S. 942 (1951). In addition, we are not here concerned with recognized legal entities composed of the same people but carrying on separate businesses. See Nichols & Co. v. Secretary of Agriculture, 131 F.2d 651 (1st Cir. 1942), rehearing on other grounds, 136 F.2d 503 (1st Cir. 1943); McComb v. Aibel, 100 F.Supp. 752 (E.D. N.Y. 1951). In fact, even if separate entities could be said to exist for the several Sparks tradenames the composition and operation of the various companies would require that such separate legal existence be disregarded, that is, the facts herein would warrant "piercing the partnership veil." Cf. Corn Products Refining Company v. Benson, 232 F.2d 554 (2d Cir. 1956); National Labor Relations Board v. E. C. Brown Co., 184 F.2d 829 (2d Cir. 1950); E. Albrecht & Son, Inc. v. Landy, 114 F.2d 202 (8th Cir. 1940); United States v. Milwaukee Refrigerator Transit Co., 142 Fed. 247 (E.D. Wis. 1905).

Consequently, we have for consideration a business conducted by respondents under five names. It is all one business and respondents, in legal effect, do not sell to themselves and buy from themselves. Rather, respondent Harry Lee Sparks receives orders from various packers for hogs and those hogs are supplied by respondent partners by means of purchases by them at posted stockyards and at numerous country points. Respondents as a dealer under the act purchased hogs at three posted stockyards in the transactions set forth in the disputed paragraphs of the complaint and they may not defeat the Secretary's jurisdiction merely by allegedly selling hogs to themselves while operating in an unregistered capacity for "resale" to the real or actual purchaser with the invoicing being done in the name of the unregistered company. Cf. Leslie W. Woerth v. United States, 231 F.2d 822 (8th Cir. 1956). Our inquiry, therefore, in connection with the various jurisdictional issues raised by respondents is whether each transaction relating to the livestock in question is subject to the jurisdiction of the Secretary under the act and the fact that Midwest invoiced or billed the packer-purchaser or "purchased" some of the hogs from the other Sparks companies is immaterial to such inquiry.

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[2] See also section 2(a) of the act (7 U.S.C. 182) which modifies the common law to the extent that partnerships thereunder are entities for purposes of suit or sanction in addition to the members thereof. Cf. United States v. A&P Trucking Company, 358 U.S. 121 (1958).

Paragraphs IV, V and VI of the complaint allege in part that respondents sold hogs to packers at false and incorrect weights during the period December 1, 1955, through January 31, 1957, in violation of section 312(a) of the act. During the period involved such section read as follows:

> "Sec. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of livestock."

In each of the transactions set forth in the disputed paragraphs of the complaint, some of the hogs were purchased by respondents as a dealer through their employees at a posted stockyard and applied on orders received from packers by Harry Lee Sparks at the St. Louis National Stock Yards or were purchased at a posted stockyard to fill such orders. Respondents either purchased the hogs at posted stockyards in anticipation of subsequent sales to packers or in order to supply hogs they had contracted to sell. These hogs, together with others purchased at country buying stations, were applied or appropriated to the order of a particular packer-purchaser and the invoice covered the total number of hogs sold to and purchased by the packer. The practices complained of in each of the transactions alleged in the paragraphs of the complaint in issue were in connection with the selling of hogs by a dealer at a posted stockyard. In the transactions involved, respondents were engaged in the selling of hogs purchased by them at Bushnell, Springfield and Peoria to packer-purchasers at a posted stockyard and the alleged false and incorrect weights and invoices were in connection with such selling. The selling, as distinguished from the sale, took place at the St. Louis National Stock Yards when orders were placed by packers and at the posted stockyards at Bushnell, Springfield or Peoria when hogs were appropriated or applied by respondents to such orders. Cf. McCowen v. Dumont, 54 F. Supp. 749, 751 (W.D. Mo. 1944). Cf. also Lambur v. Yates, 148 F.2d 137, 139 (8th Cir. 1945); Nigro v. United States, 117 F.2d 624, 631 (8th Cir. 1941); In re Tarr, Downs and Company, 8 A.D. 517 (1949). There was no requirement in section 312(a) prior to its amendment that the purchaser be physically at the stockyard or that the livestock sold be at the same stockyard where the sale is made.[3] Also, it does not appear that title passed or delivery was made to the packer-purchasers until the hogs were transported to the packing plants. Cf. McCowen v. Dumont, supra, at page 751.[4]

Respondents further contend that any gain or increase in weight of the hogs involved over purchase weights was limited to hogs purchased at country points and that, therefore, jurisdiction is lacking herein. In other words, respondents allege that the hogs purchased at posted stockyards by them were invoiced to the packer-purchasers at the same weight and price as such hogs had been purchased and that the hogs that had been at posted stockyards are not involved in the false weights allegedly reflected on the invoices submitted to the packers. This contention is not supported by the record and, in fact, the evidence indicates otherwise.[5/] In any event, it is not possible to separate the hogs purchased at posted stockyards from hogs purchased at country points on the invoices submitted to respondents' customers. The invoice in each transaction does not identify the source of the hogs covered thereby although the hogs had been purchased at several points, including a posted stockyard, to fill the order. The weight allegedly added in each transaction was to the entire lot of hogs and not to a portion only.

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[3] We are not hereby holding that a sale on a posted stockyard of livestock which are not then on and never come to a posted market was within the purview of the act prior to the recent amendment thereto although the statute prior to amendment could possibly be so construed.

[4] The practices complained of also could be construed to have occurred in connection with the "marketing . . . in commerce at a stockyard, of livestock." Cf. McComb v. Consolidated Fisheries Co., 75 F.Supp. 798, 804 (D. Del. 1948), aff'd, 174 F.2d 74 (3d Cir. 1949). But cf. Mitchell v. Stinson, 217 F.2d 210 (1st Cir. 1954).

II

We now turn to the merits of the charges contained in paragraphs IV, V and VI. Evidence in support of the charges contained in paragraphs IV and V introduced by complainant was largely based upon respondents' own records. From these records a Department auditor traced all the hogs purchased by respondents to the packers to whom they were sold for the entire period covered by these paragraphs and the weight of the hogs in each transaction was compared at time of purchase with the weight listed on the invoice or billing to the packer-purchaser. In making this comparison reweigh weights, that is, the results of a later weighing of the hogs, were utilized in place of purchase weights whenever reweigh weights were shown in respondents' records. The auditor testified that during his

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[5/] It appears that weight was added to hogs purchased by respondents at a posted stockyard and sold to a packer in one of the few transactions where a copy of the invoice was introduced into evidence. While the invoice in question in that transaction dated April 17, 1956, did not identify the source of the hogs, from respondents' other records it seems that the 21 and 28 hogs listed thereon had been purchased at the posted stockyard at Peoria at a lesser weight than listed on the invoice.

audit or investigation he was informed by respondents' employees that there were no records of reweighing other than those he examined and that he found none. Among the transactions for which there were no records of reweighing were the instances listed in the complaint and in Finding of Fact 4. It is significant in this regard that respondents' accountant testified that in the usual course of business scale tickets representing the weight of hogs when they leave country points would be sent to respondents' Chapin office. Complainant's audit or examination of respondents' records at Chapin was conducted during the latter part of January and during February 1957 and no such scale tickets or other evidence of a reweigh were found for the transactions set forth in paragraph IV of the complaint, some of which occurred just prior to or during the audit. In almost all instances the comparison of weights described above showed a marked increase of the weight of the hogs on the invoice as against the purchase weight.

In addition to the documentary evidence in support of charges of false and incorrect weights, Ischer, manager of respondents' office at Chapin, Illinois, and the person responsible for or in charge of preparing invoices or bills to the packer-purchasers, said, in a sworn statement, that the weights shown on the invoices "are sometimes reweigh weights and sometimes they are the original buy weights and at other times they are weights obtained by adding a certain amount to the original buy weights so as to take care of shrink .... One such instance occurred on March 7, 1956 in Billing Hunter Packing Co. for 639 hogs. The buy weight was 136,135 lbs. and the invoice to Hunter showed 137,950 lbs. or a difference of 1,185 lbs. Some of these Hogs were reweighed while weight was added to others when making the invoice. The off truck weight at E. St. Louis was 133,665 lbs...." This statement was read over the telephone to respondent Harry Lee Sparks before his employee signed it. While there is much confusion and conflict in the record with respect to the circumstances surrounding the preparation and signing of the sworn statement, it is significant that Ischer did not directly deny the truth of the statement, that is, the facts set forth therein, or that he orally made the statement with respect to adding weight to take care of shrink when he testified at the oral hearing and Harry Lee Sparks failed to testify herein. Cf. Interstate Circuit v. United States, 306 U.S. 208, 225-27 (1939); Bilokumsky v. Tor, 263 U.S. 149, 154 (1923); Montgomery Ward & Co. v. National Labor Relations Board, 107 F.2d 555, 560 (7th Cir. 1939). See also 2 Wigmore, Evidence Sec. 289 (3d ed. 1940). Also, complainant's employee who prepared the statement for Ischer's signature testified that Ischer read it and that it was read to Harry Lee Sparks over the telephone before Ischer signed it. It does not seem likely to us that Ischer would sign a sworn statement without first reading it and conferring with his employer. Moreover, Ischer's sworn statement appears to be corroborated by respondents' records. Reweigh weights were found therein for many of the transactions covered by complainant's audit and no reweigh weights were shown thereon for other transactions, including those set forth in the complaint, although the invoice weights represented an increase over the original buy weights.

Respondents contend that the tabulations or summaries prepared by an auditor employed by complainant from material in respondents' records should not have been received in evidence in this proceeding because the records upon which they were based were not introduced into evidence or brought into the hearing room, citing Berthold-Jennings Lumber Co. v. St. Louis I.M. & S. Ry. Co., 80 F.2d 32 (8th Cir. 1935), cert. denied, 297 U.S. 715 (1936).[6] Summaries of voluminous records may be introduced into evidence and most courts require as a condition of such admission that the mass of data shall, if the occasion seems to require it, be placed at hand in court or at least be made accessible to the opposing party. See e.g., Board of County Commissioners of Wyandotte County, Kansas v. William J. Howard, Inc., 230 F.2d 561, 564 (10th Cir. 1956), cert. denied, 351 U.S. 926 (1956); Gross v. United States, 201 F.2d 780 (9th Cir.

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[6] The Berthold case is clearly distinguishable from the facts involved herein in that the summary in that case was of records of a person other than the party contesting its admission and the records were not otherwise available to such party. Cf. also Greenbaum v. United States, 80 F.2d 113 (9th Cir. 1935); Wilkes v. United States, 80 F.2d 285 (9th Cir. 1939).

1953); Yoffe v. United States, 153 F.2d 570 (1st Cir. 1946); Augustine v. Bowles, 149 F.2d 93 (9th Cir. 1945). See also 4 Wigmore, Evidence Sec. 1230 (3d ed. 1940). Similarly, summaries are admissible in administrative proceedings. See e.g., Chicago Board of Trade v. United States, 223 F.2d 348, 354 (D.C. Cir. 1955); Willapoint Oysters, Inc. v. Ewing, 174 F.2d 676 (9th Cir. 1949), cert. denied, 338 U.S. 860 (1949); In re Harry C. Daniels, d/b/a Harry C. Daniels and Co., 12 A.D. 1113, 1120-21 (1953); In re Harry C. Daniels, d/b/a Harry C. Daniels and Co., 14 A.D. 903, 921-22 (1955), aff'd, 242 F.2d 39 (7th Cir. 1957). Moreover, the greater flexibility of such proceedings lends itself to such a method of proof. See Chicago Board of Trade v. United States, supra.

Respondents' books and records located at Chapin, Illinois, were examined by accountants employed by complainant who made copies of some of respondents' records or summaries therefrom. The records themselves never left respondents' office at Chapin and at all times were in respondents' possession and control. Approximately a week prior to the hearing, counsel for complainant supplied counsel for respondents with a copy of complainant's exhibit 1, except for one page thereof, which constitutes the basic data copied or summarized by complainant's auditors from respondents' records. The records which were reflected by exhibit 1 and exhibit 2, which was constructed from the material contained in the former exhibit, were in respondents' possession and control, that is, the mass of data was always accessible to respondents and they were given notice that complainant would refer to or introduce into evidence summaries thereof. Under these conditions the summaries in issue and the oral testimony with respect thereto were clearly admissible in evidence. Cf. New Amsterdam Cas. Co. v. W. D. Felder & Co., Inc., 214 F.2d 823, 828-29 (5th Cir. 1954); Stevens v. United States, 206 F.2d 64, 66 (6th Cir. 1953); Gross v. United States, supra; Augustine v. Bowles, supra.

The same cannot be said with respect to respondents' exhibits 4 through 12 and the oral testimony of Joseph H. Gilby, respondents' accountant located at Chicago, Illinois, in connection therewith. Such exhibits and much of the oral testimony were introduced into evidence over complainant's objections. Respondents' exhibits 4 through 12 are allegedly summaries made from respondents' records at Chapin. In addition, Gilby testified as to what those records contained. Yet the records were not in the hearing room or accessible to complainant. We are not here concerned with questions of "mutuality of obligation" for example, but, rather, fairness to the parties and the ability of the parties to cross-examine each other's witnesses. The audit or examination by complainant's employees of respondents' records at Chapin was conducted approximately 27 months prior to the oral hearing herein. As stated above, much of Gilby's testimony and respondents' exhibits in issue were claimed to be based on respondents' records. But respondents did not make their records available to complainant for purposes of cross-examination and complainant could not be expected to be in a position to controvert such testimony, in the absence of respondents' records, on the basis of an examination of such records which had taken place 27 months earlier. Complainant's evidence was that respondents had no reweigh records for the hogs and respondents claim that they did. It was respondents' burden to produce the reweigh records in support of their exhibits and testimony. Respondents' exhibits 4 through 12 and Gilby's testimony with respect thereto appear to be hearsay and incompetent in a court proceeding. Berthold-Jennings Lumber Co. v. St. Louis I.M. & S. Ry. Co., supra; In re Bell Tone Records, Inc., 91 F.Supp. 642, 644 (D. N.J. 1950). Cf. Wilkes v. United States, 80 F.2d 285 (9th Cir. 1935); Greenbaum v. United States, 80 F.2d 113 (9th Cir. 1935). In any event, in the absence of reweigh records either offered in evidence or produced for complainant's examination at the hearing, there is little or no probative value to the exhibits and the testimony in connection therewith.

Furthermore, respondents' exhibits 4 through 12 were prepared by unnamed persons in Chapin and sent to Gilby in Chicago. He testified that such exhibits were prepared under his supervision, but his apparent unfamiliarity with them indicates that he was probably not qualified to testify with respect thereto. In addition, respondents' attempt to establish by means of their exhibits 4 through 12 that the average gain in weight per hog is not as great as stated in the complaint is defective in that the purchase weights and sale weights in the record are for the same hogs and it is not necessary to consider the total purchase weights of all hogs purchased by respondents on the same day at the country buying points to ascertain the gain or increase in weight of the hogs applied on the sales involved.

Additional infirmities are also present in Gilby's testimony. He testified at great length with respect to the transactions set forth in paragraphs IV, V and VI of the complaint. Yet, Gilby had no personal knowledge of the facts. Rather, for example, he could only testify that respondents or their employees told or informed him that the weights listed on the pertinent invoices represented the weight of the hogs involved on being reweighed prior to shipment to packers. Gilby's testimony was hearsay and can be described generally as being based on what he was told was the case and not necessarily on what was the case. There is no indication that this witness or his firm conducted an audit of respondents' business or any clear showing how he did or could determine the truth or falsity of what he was told. Furthermore, Gilby's understanding of respondents' procedure with respect to scale tickets representing the reweigh of hogs is contradicted by one of respondents' employees. Gilby testified that such scale tickets are sent to respondents' Chapin office. Edgar McNay, manager of respondents' Quincy point, testified that the scale tickets of reweighs at Quincy are retained there. The hearing examiner who was in the position to observe the demeanor of Gilby placed little or no credence on the testimony of this witness. See, e.g., Great Western Food Distributors v. Brannan, 201 F.2d 476, 479 (7th Cir. 1953), cert. denied, 345 U.S. 997 (1953); Ohio Associated Tel. Co. v. National Labor Relations Board, 192 F.2d 664, 668 (6th Cir. 1951). We are in agreement therewith.

It is concluded, therefore, that in 46 separate transactions during the period December 1, 1955, through January 31, 1957, respondents, in connection with the selling of hogs at posted stockyards together with hogs purchased by them at country points to various packers, sold such hogs at false and incorrect weights which were in excess of the true and correct weights. This clearly constitutes an unfair and deceptive practice in wilful violation of section 312(a) of the act (7 U.S.C. 213(a)). Also, the issuance of invoices showing false and incorrect weights to packers subject to the provisions of the act, copies of which were made a part of the accounts and records of such packers, constitutes a wilful violation of section 312(a) of the act, section 201.55 of the regulations issued thereunder (9 CFR 201.55) and section 402 of the act (7 U.S.C. 222) which makes applicable section 10 of an act entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (15 U.S.C. 50). The fact that the physical act of invoicing was not done at a posted stockyard is immaterial.

Paragraph VI of the complaint is concerned with seven of the transactions set forth in paragraphs IV and V thereof which we have discussed above. It appears that Heil Packing Company and Hunter Packing Company, two of the packer-purchasers, required scale tickets in support of the weight listed on the invoices submitted to them in connection with the hogs they purchased from respondents. Paragraph VI alleges, in part, that false and fictitious scale tickets were sent to these two packers in the transactions listed therein in that the hogs involved were not weighed in connection with the printing of the scale tickets. It is further alleged that the scale tickets were printed by respondents on a scale owned by them at Chapin, Illinois, although the hogs had not been purchased or shipped from Chapin and that no hogs were on the scale when the tickets were printed.

The printing of the scale tickets involved at Chapin is not now disputed. Respondents denied the allegations of the complaint on this point in their answer, but after testimony clearly showed that the scale tickets were printed on the Chapin scales and that such scales would not hold as many hogs as some of the tickets indicated had been weighed in one draft, there was no further denial. Rather, respondents now contend that these scale tickets were only summaries of many drafts that had been weighed elsewhere. Again, no record evidence was offered to support such contention, and of respondents' two witnesses who testified with respect to the scale tickets, one did not know who printed the tickets, and the other denied responsibility for printing them. The latter witness even said he did not know why the packers asked for scale tickets.

Respondents' explanation of the scale tickets in issue is implausible especially in view of our conclusions above that the invoices in the seven transactions involved showed false and incorrect weights. The two packer-purchasers obviously demanded scale tickets to support the total weights listed on the invoices or billings to them. Their payments to respondents were based on such weights. Respondents made fictitious scale tickets to support the false and incorrect weights set forth on the invoices. It is significant that respondents did not offer their explanation of the fictitious scale tickets in their answer, but denied that such tickets were fictitious. It was only after complainant clearly established that the questioned scale tickets were printed on respondents' scale at Chapin that respondents' explanation was forthcoming. The printing of false and fictitious scale tickets and the issuance of such false and fictitious tickets to packers subject to the provisions of the act, copies of which were made a part of the accounts and records of such packers, in the seven transactions involved herein constitute wilful violations of section 312(a) of the act, section 201.55 of the regulations issued thereunder, and section 402 of the act in the same manner as found above in connection with the invoices issued to the packers.

III

The other transactions enumerated in the complaint and remaining in this proceeding occurred wholly on a posted stockyard and no question or issue of jurisdiction is present with respect thereto. First, the record clearly indicates that respondents, at the St. Louis National Stock Yards, substituted hogs which had not been weighed for hogs in drafts which had been weighed, and billed the purchasers on the basis of the weights obtained prior to the substitution. Complainant's employees testified with respect to observations they made on four different dates at the stockyard during which such substitutions took place and respondents do not really contest this evidence. (See Finding of Fact 10) Such substitution of hogs constitutes an unfair and deceptive practice in wilful violation of section 312(a) of the act.

The record also demonstrates that in four transactions respondents made alterations on copies of scale tickets retained in their records by changing the number of head of livestock listed thereon and used such altered scale tickets as a basis for billing the purchasers of the hogs. (See Finding of Fact 7.) For example, in one of the transactions the scale ticket retained in the records of the stockyard company shows the weighing of 144 hogs at a total weight of 20,860 pounds while on respondents' copy of this scale ticket the head count was changed from 144 to 138 at the same total weight of 20,860 pounds. Respondents' invoice to the purchaser of these hogs shows that the hogs were billed to such purchaser on the basis of the altered head count of 138 and the original weight.[7/]

The only evidence offered by respondents with respect to the transactions in issue was the testimony of Joseph H. Gilby. He testified that he made an investigation of these transactions and that the entries changing the head count on the copies of the scale tickets retained in respondents' records were made pursuant to instructions of employees of the stockyard company. Gilby stated that he had ascertained from Harry Sparks and various employees of respondents that the changes were made at the direction of the stockyard weighmaster and that there was a note in respondents' records to this effect. None of respondents' employees were called as witnesses in this regard although the hearing was held at St. Louis, and the record entries referred to by Gilby were not offered in evidence. Also, Gilby had no personal knowledge of these transactions, could not identify any employee of the stockyard company who might have given the instructions, did not discuss these transactions with any of the personnel of the stockyard company, did not know the

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[7/] It is not readily seen, however, how the purchasers were injured by the change of head count in two of the four transactions involved. (See Finding of Fact 7(c) and (d).)

names of the weighers involved and could not even identify the employees of respondents with whom he discussed these transactions. Gilby's explanation is also contrary to the practice at the stockyard whereby a weighmaster who alters or directs the alteration of a copy of a scale ticket makes a corresponding change on the original scale ticket. It is concluded that Gilby's testimony is lacking in probative value.

In addition, in six other transactions in connection with sales of hogs at the St. Louis National Stock Yards respondents made entries on copies of scale tickets retained in their records which were different from, or in addition to, the original entries appearing on such scale tickets. On each of the copies of the scale tickets retained in respondents' records, entries were made representing that certain numbers of hogs had been weighed at stated weights. Such entries were not found on the stockyard company's copy of the corresponding scale ticket and there was no weighing transaction at the stockyard to support any of these entries. Also, in each of these transactions respondents sold hogs to a purchaser and billed the purchaser on the basis of the entries made by respondents on the copy of the scale ticket retained in their records. (See Finding of Fact 9.)

Again, the only oral evidence offered by respondents in connection with the six transactions in issue was the testimony of Gilby. It is apparent from his testimony that Gilby had no personal knowledge of these transactions and that such testimony is vague and contradictory and also lacking in probative value.

The changing of head counts shown on scale tickets and the billing of purchasers on the basis of the altered head counts and original weights, and the making of entries on scale tickets falsely representing that hogs had been weighed at certain weights and the billing of purchasers upon the basis of such entries are unfair and deceptive practices in wilful violation of section 312(a) of the act. Moreover, respondents had been ordered to cease and desist from the altering of head counts and billing on the basis of such changed number of livestock in our order of October 15, 1951, In re H. L. Sparks and Rex Wanda Sparks, d/b/a H. L.

Sparks and Company, 10 A.D. 1324 (1951). In addition, respondents' failure to keep accounts, records, and memoranda which fully and correctly disclose the true nature of all transactions involved in respondents' business and the making of false entries by respondents on accounts, records and memoranda kept by them constitute serious violations of section 401 of the act (7 U.S.C. 221) and section 402 thereof which makes applicable Section 10 of the Federal Trade Commission Act (15 U.S.C. 50). Respondents contend that the act contains no prohibition against adding written material on scale tickets retained by a dealer. Such a practice is clearly prohibited where the entry is false or unsupported by any weighing transaction.

IV

Respondents contend that the evidence in this proceeding based upon matters in respondents' records at Chapin, Illinois, was illegally obtained. G. H. Hopper, complainant's District Supervisor at Chicago, Illinois, by letter dated December 17, 1956, requested Harry Lee Sparks to give M. C. Smith, complainant's employee at Chicago, access at Chapin to "all of your books and records from stockyards, coming under the Packers and Stockyards Act, and all other markets or country points, where you operate as a buyer of livestock." In this letter, Hopper stated that Smith was auditing, in part, the books and records of the Sparks firms at the posted stockyards at Peoria and Bushnell and could not complete such audit because of respondents' failure to make available respondents' records from country points. This matter was referred by respondents to Gilby who, in a letter dated January 14, 1957, agreed voluntarily to make such records available to complainant's auditor. This clearly does not constitute illegal search and seizure. Moreover, respondents' records located at Chapin included records of respondents' operation at posted stockyards and, as indicated by Hopper's letter of December 17, 1956, audit of respondents' trading at Bushnell and Peoria could not be completed without reference to the records maintained at Chapin. For example, the disposition of hogs purchased by respondents at the posted stockyards at Bushnell, Peoria and Springfield could not be determined by respondents' records at such yards. Resale records were maintained or kept at Chapin as well as the financial records of respondents' operations at such posted stockyards. Complainant clearly had a legal right to inspect respondents' records at Chapin. Leslie W. Woerth v. United States, supra.

Respondents also contend that no sanction can be invoked against them because Section 9(b) of the Administrative Procedure Act (5 U.S.C. 1008(b)) was not complied with prior to the institution of this proceeding. Section 9(b) states, in part, that there shall be no withdrawal, suspension, etc., of any "license" except in cases of "willfulness" unless prior to the institution of an administrative proceeding an opportunity is accorded to demonstrate or achieve compliance. Respondents' acts were knowingly and intentionally done and were wilful for the purposes of section 9(b).[8/] See, e.g., Mercado v. Brannan, 173 F.2d 554, 555 (1st Cir. 1949), cert. denied, 338 U.S. 820 (1949); In re Benedict K. Goodman, 18 A.D. 1121, 1128 (1959). See also United States v. Illinois Central Railroad Company, 303 U.S. 239, 243-44 (1938).

We now address ourselves to the sanction. Of course respondents should be ordered to cease and desist from the unlawful practices found herein and to keep accounts, records and memoranda which fully and correctly disclose all transactions involved in their business. Too, in view of the number and gravity of the violations and of the existence of the prior proceeding referred to in Finding of Fact 8, we think respondents should be suspended as registrants under the act for six months. Since, however, such a suspension would now have a broader coverage than would have been the case at the times of the violations due to expansion of the act's jurisdiction since the complaint was filed, the suspension should be limited to the act's reach when the violations occurred.

[8/] Section 403 of the act (7 U.S.C. 223) reads as follows: "When construing and enforcing the provisions of this Act,the Act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person."

Order

Respondents shall cease and desist from:

Selling hogs at false weights;

Using any false scale ticket as a basis of settlement for hogs sold;

Altering any scale ticket or copy thereof issued by a posted stockyard;

Using any scale ticket to indicate the weights of a lot of hogs after any substitution of any hog after the draft was weighed; and

Causing false entries in their own accounts, records, or memoranda, or in those of any other person or firm subject to the provisions of the act.

Respondents shall keep accounts, records, and memoranda which fully and correctly disclose all transactions involved in their business.

Respondents are suspended as registrants under the act for a period of six months but such suspension shall apply only to activities subject to the jurisdiction of the act prior to amendment of the act September 2, 1958 (72 Stat. 1749).

Except as to suspension, this order shall become effective on the 6th day after its date. The suspension of respondents as registrants shall become effective on the 30th day after the date of this order.

Done at Washington, D. C.
July 29, 1960

Thomas J. Flavin
Judicial Officer

PETITION PURSUANT TO SECTION 202.21(a)(3) OF THE RULES OF PRACTICE

Comes now the Sparks respondents in the above-entitled matter and pursuant to Section 202.21(a)(3) of the Rules of Practice petition the Secretary of Agriculture to rehear the above-entitled matter or, in the alternative, that respondents be afforded an opportunity to reargue this matter, and, that in any event, the Secretary reconsider the order heretofore entered herein, for the reasons and on the ground hereinafter set forth and urged. Respondents also request oral argument hereon.

1. Finding of Fact 3 on page 4 of the Decision and Order, and the recitals and findings of page 3, paragraphs 1 and 2 on page 3 of the Decision and Order are erroneous. No "purchase orders" were in fact received for the reason that the respondents are not "order buyers." It is assumed that the Decision in using this phrase, refers to sales by certain of respondent entities to the packers. As to these sales, rather than "purchase orders," the fact is that each of the respondent entities, independent of each other, made sales to various packers. Thus, sales were made by H. L. Sparks and Co. of Peoria, H. L. Sparks and Co. of Bushnell, and by Midwest Order Buyers to various packers, each independent of the other. There was neither tie-in nor connection between the sales made by each of these independent entities to the respective packer-purchasers.

It is true that H. L. Sparks, as an individual, received orders which resulted in sales by each of these independent entities, and it is also true that Sparks of Peoria and Sparks of Bushnell made sales to packers in response to orders received by them directly from the packer-purchaser which did not either originate with, or pass through, H. L. Sparks, individually.

It is to be noted that, insofar as Midwest or country hogs is concerned, packer-purchasers in placing orders with H. L. Sparks specified country hogs, and country hogs were in fact shipped to fill these orders. Thus, the identity of hogs was established at the time of purchase, and this identity was maintained throughout. There was no commingling of country hogs with hogs from posted yards, either in purchase or sale. To the extent that the Decision and Order rely upon any theory of commingling, or on any fact relating to commingling, the Decision is in error.

Finding of Fact 3 on page 4 of the Decision and Order is erroneous in several significant aspects. Thus, H. L. Sparks as an individual, did more than receive "orders for hogs from packers." He also solicited sales and in making these sales, the purchasers not only knew the origin of the hogs which had been purchased, but also specified whether they, the purchasers, wanted country hogs or posted yard hogs.

This Finding is further erroneous in that it assumes that H. L. Sparks individually made all sales of hogs. That is not the case. Sales were made by the various posted yard independent entities to various packer-purchasers. The record is clear as to this point.

Payment for these sales, contrary to the Finding, was not made to a bank account kept by H. L. Sparks & Company, but instead, was made to Midwest, for deposit in its own bank account, in a bank in National Stock Yards, Illinois. The reason for this banking arrangement was made clear. It was deemed to be a prudent business practice not to keep large sums of money on deposit in a small country bank. This was the reason, and none other. Nevertheless, the Decision and Order proceeds on the premise that the banking arrangement was purposed to further some sinister scheme, violative of the statute. This is error.

2. The Findings in which the Decision and Order overlook the fact that the various Sparks businesses were in fact independent entities and the responsibility lodged with the "respondents" indiscriminately throughout the Decision and Order, are clearly erroneous. The Sparks entities were not organized and conducted for any purpose other than legitimately to conduct the business of buying and selling livestock.

The history of these partnerships attest to the truth of the fact. Originally, the partnership consisted of persons other than Rex Wanda Sparks and Harry L. Sparks. Rex Wanda Sparks was a latecomer, and her inclusion as a partner stems from the death or disability of the partners whom she succeeded. Circumstances, wholly unconnected with the marketing of livestock, led to her inclusion as a partner. That and nothing else. The Decision and Order, however, ascribe the organization of the partnership to a plan by which the statute and rules and regulations might be avoided. This, as stated, is error.

3. The Findings of Fact relating to the alleged sale of hogs at weights "in excess of the true and correct weights" are clearly

erroneous, and stem from the incomplete investigation upon which the allegations are based, the erroneous conclusions drawn therefrom, and a failure to comprehend and understand the true nature of the transactions involved. The truth is, respondents did not sell hogs to various purchasers at false and incorrect weights, in excess of the true and correct weights in the transactions recited, or in any transactions. In each of the transactions in which this violation is alleged, shipments were made up of hogs purchased by Midwest Order Buyers from Bushnell, Peoria, or Springfield and by Midwest Order Buyers at its various country buying stations.

The reason the hogs involved were thus purchased by Midwest was that such were necessary to fill the order represented in the sale. Any and all hogs purchased were shipped in separate trucks, direct to the purchasers, and were billed by Midwest at the same price and same weight charged Midwest by their respective sellers, the posted market points. The fact is, that these posted markets could not dispose directly of all of their purchases on their respective markets. These sales were invoiced on the reweigh scale tickets of the posted markets. The statement in the Decision and Order to the contrary is incorrect.

The payments by the packers for their hogs were made to Midwest and, as a rule, went directly to Chapin, and only on occasion to National Stock Yards for deposit in the Midwest bank account at the National Stock Yards Bank.

Aside from the errors already assigned in other pleadings in respect of Finding 4, there is this final and fundamental error - which appears in the penultimate sentence of the finding that "The weight figures shown on each bill or invoice was not based upon any reweighing of the hogs." The fact is to the contrary.

The foregoing discussion, and the tables appearing on pages 14, 15, 16 and 17 of Respondents' Brief filed herein on September 8, 1959, show that except where the purchase weight was used as a sales weight, a practice which is legal and legitimate, all hogs were in fact reweighed before the sale was invoiced. Respondents' Exhibits 4 through 12 detail in detail each of the transactions involved, detail in detail each weighing and reweighing, and note the correct resultant balances. To say that these hogs have not been reweighed flies in the face of the clear and uncontroverted physical facts.

These tables and the analyses also show numerous summaries of the actual scale tickets, that these are summaries for the reason that every shipment represents an aggregate of numerous original reweigh scale tickets. Thus, the 579 invoices cited on Complainant's Exhibit No. 1, for the purchase weight scale tickets were used as the weight shipped in billing to purchasers, were based on 23,200 individual scale tickets. (See Respondents' brief, September 8, 1959, pp. 8-9)

The number of scale tickets involved in the transactions alleged in paragraph IV of the complaint is shown in the following table:

		Included in Total from Posted Market				Total Invoice			
Date	Posted Market	Head	Scale Tickets covering the Hogs from Springfield and Peoria	Weight Bought at Charged at	Scale Tickets for Country Weights	Head	Invoice Weight	Res-pondents Exhibit Number	Summaries to handle the Shipment
12/ 1/55	S	167	7	63,060	14	488	146,005	#12	7
12/12/55	S	24	5	9,350	29	183	57,305	#12	7
12/17/55	S	24	5	10,285)	45	271	105,615	#12	6
	B	11	1	4,070)					
12/19/55	S	139	2	37,399	11	595	147,340	#11	7
12/26/55	B	36	4	11,555	40	403	113,800	#12	9
12/28/55	S	14	2	5,380	51	425	116,240	#12	11
1/10/56	B	35	3	5,650	36	663	144,710	#11	10
1/21/56	S	39	9	12,890	69	581	169,490	#12	11
1/27/56	S	32	6	8,250	89	861	215,525	#12	13
2/ 3/56	B	19	4	7,970	20	135	55,300	# 4	10
2/11/56	S	30	3	14,285	39	130	55,430	# 4	8
2/13/56	S	54	2	8,820	23	688	147,740	#11	7
2/16/56	S	48	3	7,796)	49	643	140,195	#11	11
	B	68	2	13,860)					
3/ 7/56	B	134	1	26,570	16	639	137,950	# 5	3
3/12/56	B	38	1	6,295	24	569	110,360	#11	4
3/16/56	S	38	3	16,350)	46	326	105,085	# 9	12
	B	34	6	14,420)					
3/20/56	S	216	2	46,705	34	600	145,070	# 9	10
3/20/56	S	95	4	16,795	19	440	82,215	#11	6
3/27/56	S	56	5	13,385)	15	351	81,870	#12	7
	B	86	7	24,515)					
3/29/56	S	18	3	6,525	70	581	143,510	# 4	17
4/ 9/56	S	38	5	6,245)	35	510	106,085	#11	9
	B	70	4	12,625)					
4/16/56	S	41	4	6,590	37	343	82,375	#12	10
4/17/56	S	42	4	6,815	25	576	114,425	#11	6
4/28/56	S	71	3	12,880)	29	396	75,905	#11	8
	P	26	2	4,355)					
	B	71	3	12,880)					

		Included in Total from posted Markets				Total Invoice			
Date	Posted Market	Head	Scale Tickets covering the Hogs from Springfield and Peoria	Weight Bought at Charged at	Tickets for Country Weights	Head	Invoice Weight	Respondents Exhibit Number	Summaries to handle the Shipment
5/ 1/56		57	4	9,575	13	285	54,560	#11	5
5/ 9/56	S	14	3	2,215	20	530	108,815	#11	5
5/11/56	B	36	7	16,205	37	194	80,365	#12	8
5/22/56	S	170	10	54,330)	33	400	145,460	#12	11
	P	47	4	22,500)					
	B	11	1	4,790)					
6/ 4/56	B	44	5	17,615)	52	332	135,365	# 9	10
	S	39	5	15,595)					
6/12/56	S	88	8	29,365	65	734	198,325	# 6	11
6/22/56	B	14	3	6,555	23	165	55,470	# 7	8
7/21/56	B	29	2	8,935	18	565	136,985	# 6	3
8/13/56	S	281	3	56,420	8	662	193,750	# 5	3
8/22/56	P	109	1	24,280	19	648	143,955	# 5	3
8/27/56	P	249	2	56,010	5	747	165,980	# 5	2
9/ 6/56	S	177	1	40,780	5	869	196,670	# 5	2
9/ 7/56	P	119	1	27,140	8	744	169,700	#10	1
9/15/56	B	55	2	12,995	16	994	222,290	# 6	2
10/ 4/56	B	40	5	15,100	15	96	33,620	#12	5
10/20/56	B	40	1	10,070	5	353	81,400	#10	1
1/ 5/57	P	40	4	18,945)	96	682	219,420	#12	14
	B	55	4	23,075)					
1/31/57	B	3	1	1,600	19	256	57,950	# 4	7

Initials S, P, and B used above refer to Springfield, Illinois, Peoria, Illinois and Bushnell, Illinois. These are the posted markets from which Midwest purchased the hogs shown and shipped them on the sale shown at the same weight and value Midwest was charged. If there was any loss or gain on the transaction it was stood by Springfield, Peoria, or Bushnell. When was a company ever prohibited from buying from another? All transactions are regular and at arms length. Midwest gained nothing on the transaction but did have an order for the hogs that were bought.

It is correct to say that every weight shown on the above statement, whether from a posted market or a country point, is represented by a reweigh scale ticket. Every invoice shows the summary of the original reweigh scale tickets. The foregoing table shows, for example, that the first item appearing therein required seven reweighs to arrive at the weight of 167 hogs from posted markets and fourteen scale tickets to handle the 321 hogs from the country places. These resulted in seven summary tickets to arrive at the items on the invoice. The table gives the same statistics for each invoice appearing on the statement.

Respondent asserts that an actual scale ticket was made in each instance of a shipment. How else could a summarization be made if not from actual tickets? How could a summary show "added weight" when it agrees with the summation of the actual tickets?

The distribution or work book maintained at Chapin, Illinois, was only a memorandum book and all items were not recorded therein. Assembling of sales was made on separate sheets for each day and from it invoices were made and invoice weight totals posted in the distribution or work book. This fact has been overlooked by both the Examiner and the Judicial Officer.

As indicated, all the transactions alleged in paragraph IV of the Complaint and paragraph 4 of the Decision and Order, required that 23,200 scale tickets be summarized. These figures include those listed in the foregoing table. This focuses attention on the fundamental fault in the Decision and Order, that that which in fact is involved here is a summarization of original reweigh scale tickets. This failure on the part of the complainant shows a fundamental failure to understand and comprehend the nature of the problem. It follows, therefore, that the Decision and Order is likewise tainted and in error.

The glaring and foundering error in the Decision and Order is found on page 19, where it is said:

> ". . . . it is not necessary to consider the total purchase weights of all hogs purchased by respondents on the same day at the country buying points to ascertain the gain or increase in weight of the hogs applied on the sale involved . . . ."

This is precisely what respondents do not assert.

Moreover, the Decision and Order cites neither authority nor argument to sustain this position. In fact, there are none.

What respondents asserted, and continue to assert is this - that all the hogs in the drafts from which hogs were taken to make up a shipment, must be considered in order to ascertain the gain or increase in weight of the hogs applied on the sales involved. See Respondent's Exceptions, pp. 23-25.

The following example, which is illustrative, proves this assertion:

Head	Purchase Pounds		Sales Pounds		Complainant's Record		Actual Gain	Complainant's Gain
	Average Weight		Average Weight		Average Weight			
250	200#	50,000			200#	50,000		
100	200#	20,000	200#	20,000	202#	20,200	200.	-
150	200#	30,000			198.7#	29,800	Per Hog 2.	-
100	200#	20,000	202#	20,200	200#	20,200	200	-
50	200#	10,000			192#	9,600	Per Hog 2.	
25	200#	5,000	202#	5,050	202#	5,050	50	-
25	200#	5,000			182#	4,550	Per Hog 2.	
25	200#	5,000	202#	5,050	202#	5,050	50	500
							Per Hog 2.	20

The last 25 hogs are the only hogs appearing on an invoice listed by the "Notice of Inquiry".

250	200#	50,000		50,500			500 2.	500

4. Finding of Fact 5 and the discussion thereof in the Decision and Order, are erroneous in several respects. First, respondent did not furnish the packers involved with "scale tickets in support of the weight figures shown on the invoices . . ." as stated. What was given was summarizations of the original scale tickets. Analysis of this transaction, gives the following information:

Scale Tickets	Date	No. Hogs	Number of Reweigh Invoice	Weight shown on Scale Tickets and Invoices	Respondents Exhibit Number
1	9/ 7/56	744	9	169,700	10
3	3/ 7/56	639	17	137,950	5
3	8/13/56	662	11	139,750	5
3	8/22/56	648	20	143,955	5
2	8/29/56	747	7	165,920	5
2	9/ 6/56	869	6	196,670	5
1	10/19/56	353	6	81,400	10

From this analysis and respondents' Exhibits 5 and 10, it will be found that the scale tickets referred to as being given the packers were not the original reweigh tickets but were a summary of such. The packers receiving these tickets knew they were summaries which covered the shipments represented in the invoices. The summary is the totalization of the original scale tickets. It was not practical to assemble the actual tickets to go along with the invoice. In some cases it would be a week before such tickets would arrive in Chapin. If the scale tickets in question had been marked as "summarization of weights", which they were, there could have been no criticism. It was not necessary to stamp the total by scale stamp. At present a summary of scale tickets is provided and used - by consent of the U.S.D.A. There being nothing wrong with this procedure, what is seriously wrong with what was done previously?

The genuine nature of this transaction is revealed in the following table:

Invoice Date	Number Head Sold	Invoice Weight	Buy Weight Shown on Exhibit 10	Correct Buy Weight
9/9/56	744	169,700		
Average Weight		228.09		
Make-up of Sale-Purchased at				
Peoria	119	27,140	27,140	27,140
Average Weight		228.07	228.07	228.07
Decatur	101	22,690	22,380	22,380
Average Weight		224.65	221.58	221.58
Jacksonville	16	3,400	3,425	3,425
Average Weight		212.50	214.06	214.06
Centralia	39	9,000	9,090	9,090
Average Weight		230.77	233.08	233.08
Rushville	130	29,550	29,210	29,210
Average Weight		227.31	224.69	224.69
Rushville	130	29,660	29,250	29,250
Average Weight		228.15	225.00	225.00
Rushville	16	3,700	3,720	3,720
Average Weight		231.25	232.50	232.50

The following two items represent only part of a purchase at each of these points. See below* for balances shipped on other invoices and total of purchases in cash lots.

Chapin	67	15,365	15,115	15,222		250
Average Weight		229.32	225.60	227.19	Correct	143
Quincy	126	29,195	28,870	29,070		325
Average Weight		231.71	229.13	230.71	Correct	125
Total	625	142,560	141,060	141,407		1,500
Average Weight		227.30	225.70	226.25	Correct	1,153
Total	744	169,700	168,200	168,547		1,500
Average Weight		228.09	226.07	226.54	Correct	1,153
Total						
*Shipped Other Points-						
Chapin	51	10,235	10,235	10,128		None
Average Weight		200.69	200.69	198.59	Correct	107
Quincy	164	35,845	35,845	35,645		None
Average Weight		218.57	218.57	217.35	Correct	200
*Total of Lots-						
Chapin	118	25,600	25,350	25,350		250
Average Weight		216.95	214.83	214.83	Correct	250
Quincy	290	65,040	64,715	64,715		325
Average Weight		224.27	223.15	223.15	Correct	325

The foregoing table shows that for every shipment there was a reweigh scale ticket made and counting the items shown on Respondent's Exhibit 10 there would have been at least eleven scale tickets to be assembled at Chapin on a daily assembly sheet or record to arrive at the total reweigh weight used on the invoice. These tickets are sometimes assembled by average weight of hogs and sometimes by character of hog. In other words there is a summary "ticket" for each item on an invoice.

As to the shipment of 744 hogs in question a further six summarization was made and entered on a scale ticket form, the total printed on the Chapin scale and then attached to the invoice when forwarded to the packer, buyer. The ticket should have been marked "Summary Ticket" but since such tickets are very rarely asked for by the packer the following of a detail such as a printed summary ticket was not thought necessary. Printed summary tickets are now in use. No weights are stamped by a scale stamp on any summary scale ticket. No scale ticket is stamped unless made at the time the live stock is on the scale.

5. The Decision and Order in respect of the head count violations (paragraphs 6, 7(a), (b) and (c)), is clearly contrary to the evidence. The record as to those practices is discussed at length on pages 11-13 of Respondents' Exceptions. Any finding of fault with what was done, can be based only on a naive understanding of existing and accepted marketing practices. Again, it is asked that these be reviewed in the cold light of motivation - and such a view must compel the conclusion that there was in fact no violation, much less an actionable violation.

6. Finding No. 8 is erroneous for the reason it misconstrues the order entered in P & S Docket No. 1999. The facts therein are not in any way comparable or similar to those involved here. Thus, it appears that in P & S Docket No. 1999, the total number of hogs received by the packer purchaser was unchanged. The only change involved was in the number of hogs rejected on each ticket. Moreover, it was specifically found that the alleged violations in P & S Docket No. 1999 were not wilful.

7. Finding 9 is erroneous for the reason that the Decision and Order relies on the mere allegation to support the finding of fault.

Significantly, no government witness rebutted the testimony of the witness Gilby that the hogs involved in Findings 9(a) (c) and (d) were taken off at the direction of the Bureau of Animal Industry as being unfit for movement in interstate commerce. Nor did a government witness challenge the testimony of the witness Gilby as to the incident found as fact in Findings 9(b), (e) and (f). The testimony of witness Gilby was simple and direct. In 1959 he did his best to unearth facts which allegedly occurred in 1954 and 1955, concerning an infinitesimal number of hogs. It defies understanding to understand, much less agree with, such minimal standards of proof.

8. Finding of Fact 10 is erroneous in that it is concluded that "respondents do not really contest this evidence." The contrary is true. Respondents submitted, among other things, that the testimony of the government witnesses alone, particularly that of John A. Sands, Jr., Supervisor of the St. Louis National Stockyards, is the best evidence that could be offered by respondents -- four isolated instances, spanning a period of two years, the last of which was fully a year before the complaint was issued and one of which was described by Sands as "a suspicion that possibly there had been a switching of hogs in Sparks alley" is hardly by any test evidence upon which a licensee should be suspended. When this is coupled with the failure to inform or ask Sparks, the conclusion is inescapably clear -- it is the agency, and not Sparks, which has been derelict in the discharge of duty.

It is submitted, therefore, that error is patent in this portion of the Decision and Order.

9. The Findings of Fact and the Decision and Order in respect of jurisdiction, are in error and cannot be sustained. The legislative history which was spelled out in detail in Respondents' Exception, p. 28, ff. are not answered by the Decision.

In this respect, the Decision and Order is adjetival and fictional and not substantial. Legal fiction is relied upon to find that all the independent Sparks entities are each responsible for the other. Intermingling and commingling are relied upon to establish an equally fictional factual situation. The plain truth is, that if H. L. Sparks had been doing business solely in the country, the Agency would not have jurisdiction. The legislative history supports this conclusion. The plain truth, further, is that the agency salvaged ancient and forgotten alleged irregularities, of themselves insufficient to ground a formal complaint, for the sole and only purpose of establishing jurisdiction -- and the final achievement, at best, was only derivative, artificial, and hitherto unknown. This is not administration. This is subversion of a fundamental concept of fairness and fair play.

As a matter of law, as a matter of fact, as a matter of principle, these findings are erroneous and unsupportable.

10. The criticism of the testimony of the witness Gilby and of his qualifications are untrue, unfounded, as well as unkind. They can stem only from a lack of understanding of the subject matter. The witness Gilby testified precisely and to the point. He was and is intolerant of unprecise thinking and expression. His deep and thorough knowledge of the subject, of the system he instituted, and of the field generally, entitles him to expect those who practice and judge in it, to treat these matters with the deference he believes is their due.

This witness testified at length of his experiences, and to his responsibilities as a Certified Public Accountant. He did his best to explain a simple situation to those who apparently can understand nothing that is not of their invention, and within their experience. The exhibits which he sponsored in evidence meticulously account for every hog and every pound. The method by which he analyzed each item in each transaction precluded any concealment. If there had been an unaccounted for overage, his analysis would have disclosed it. No one disputed his figures, his method or his conclusions. All that has been said is, "We don't agree with it." This is fiat - not administration.

11. The Decision and Order are further erroneous in that the alleged violations are found to be wilfull. It is difficult to resist the impulse to consider at length the meaning of this term. Text writers, courts, and scholars have considered this word from what would seem to be every angle. So thin has become the slicing, that the word is now

modified by such terms as "administrative wilfulness" and "criminal wilfullness." At the risk of being charged with pedantry, it is respectfully submitted that the final test is simply one of motivation. Absent motive, there can be no wilfullness.

In this matter, not one single syllable or scintilla of motivation can be cited. Sparks respondents had and have nothing to gain by willful resort to the practices complained of. Nevertheless, the Decision and Order equates handling, sorting and feeding (See Resp. Ex. 17), with "willfulness." This is an equation which cannot stand.

In all candor, it is requested that the Judicial Officer review the facts, and ask one simple question -- Why would Harry Sparks jeopardize a thriving business, a good name, position in his calling, by engaging in questionable practices, when success is his merely by exercising prudent business acumen? In this soil, willfulness cannot seed and mature. The truth is, there is no "willfulness" here. And, it follows, absent willfulness, there can be no sanction.

12. The Findings and Conclusions in respect of the atmosphere in which this investigation was instituted, merit review and reconsideration. The construction placed on the exchange of letters between Gilby and Hopper, is scarcely tenable. Plain words, plainly used, should convey a plain meaning. Nevertheless, notwithstanding that nothing could be plainer, the Branch did not give Gilby the courtesy of a reply, and acted contrary to a plain understanding.

This set the tone of the investigation -- and it was faithfully sounded throughout. In these circumstances, an impartial investigation, to determine the facts, not to substantiate predetermined "facts" was an impossibility, and in fact did not come about. This too cries for reconsideration, re-evaluation, and reversal.

13. The Ischer affidavit episode is a semantic conclusion, that cannot stand. It is significant that no attempt was made to interview Harry Sparks in respect of his side of the conversation. He was never confronted with the signed statement. This was a part of the investigation that was left undone, because again it would disclose lack of

motivation -- and absent motivation, the government's case collapses of its own weight.

Respectfully submitted,
BEN IVAN MELNICOFF

***

Order Dismissing Petition for Rehearing, etc.

On July 29, 1960, we entered a final decision and order (19 A.D. 709) in this disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). Respondents requested and obtained two extensions of time for the filing of a petition for rehearing, etc. On September 19, 1960, a petition to rehear or reargue the matter or to reconsider the decision and order was filed. Respondents request oral argument thereon. Complainant filed an answer September 22, 1960.

We find nothing in the petition filed that persuades us to the view that further oral argument would serve any useful purpose or that any material change should be made in the decision and order entered.

Several comments, however, can be made. Respondents argue as they have throughout the proceeding that they did not make the sales of hogs involved in Finding of Fact 4 at false weights because the hogs from posted stockyards included in the sales were sold by respondents at the purchase weights and the hogs from nonposted points gained weight between purchase and sale and were sold at true weights, although these weights were greater than purchase weights, because these hogs were "reweighed" after purchase and before sale.

The weights at which the hogs involved were sold by respondents exceeded the weights at which the hogs were purchased by respondents and there is no way of separating the hogs originating at posted stockyards from the hogs originating at unposted points to ascertain at what weights the hogs from posted yards were sold.

Respondents contend as they have throughout the proceeding that their exhibits and tables in their brief show that the weights of the hogs from nonposted points weighed more when sold than the purchase weights. Respondents refused to produce any records at the hearing to support the "reweigh" entries in their exhibits. As we said in the final decision, there is little or no probative value, in the absence of supporting records, to the exhibits and the testimony in connection therewith. Of course statements of counsel in argument and pleadings are not adequate substitutes for evidence of probative value.

In connection with Finding of Fact 5 and the conclusions as to the use of so-called "summary" scale tickets respondents state that "summary" scale tickets are permitted by the United States Department of Agriculture. Respondents have not shown that the Department has approved or authorized the use of "summary" or "memorandum" scale tickets.

The petition for rehearing, reargument, reconsideration, etc., is dismissed.

Done at Washington, D. C.
September 26, 1960

Thomas J. Flavin
Judicial Officer

Stay Order

On October 19, 1960, respondents filed an appeal in the U. S. Court of Appeals for the District of Columbia of our order of July 29, 1960. The suspension of respondents' registration contained in the order of July 29, 1960, is hereby stayed pending the outcome of respondents' appeal.

Done at Washington, D. C.
October 19, 1960

Thomas J. Flavin
Judicial Officer

[Received October 19, 1960]

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16041

PETITION FOR REVIEW OF ORDER OF THE SECRETARY OF AGRICULTURE

To the Honorable Judges of the United States Court of Appeals for the District of Columbia Circuit:

Harry Lee Sparks and Rex Wanda Sparks (presently doing business as H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria) hereby petition this court, pursuant to the provisions of the Act of December 29, 1950, 64 Stat. 1129, et seq., 5 U.S.C. Secs. 1031, et seq. and Rule 38 of the General Rules of the United States Court of Appeals for the District of Columbia Circuit, for judicial review of an order of the Secretary of Agriculture, as follows:

(a) NATURE OF THE PROCEEDING

This is a proceeding to review the suspension of petitioners' registrations to act as dealers and market agencies pursuant to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181, et seq.), hereinafter referred to as the"Act," for a period of six months by the Secretary of Agriculture for alleged wilful violations thereof in the sale of hogs at the St. Louis National Stockyards, National Stockyards, Illinois, a "stockyard" as that term is defined in Section 302 of the Act as it read prior to its amendment on September 2, 1958 (Pub. Law 85-909, 85th Cong., 72 Stat. 1749, et seq.), and at various other points generally known as "country points." Copies of the orders involved are attached hereto as Exhibits A, B, C, D, E and F, respectively. Petitioners on September 19, 1960, petitioned the Secretary to rehear and reconsider his decision. A copy of that petition is attached hereto as Exhibit G. Exhibit F is the Secretary's denial thereof.

Petitioners are licensed by the Secretary of Agriculture to act as dealers and as marketing agents in the sale of livestock, including hogs, at various posted stockyards. Petitioners also bought and sold hogs at points other than posted stockyards, known as "country points." The Secretary of Agriculture on October 10, 1957, issued an Order of Inquiry in which it was alleged that petitioners had wilfully violated the Act and rules and regulations thereunder, in several respects, in the sale of hogs at country points and posted stockyards. Petitioners, by appropriate pleadings, challenged the jurisdiction of the Secretary of Agriculture over the acts alleged to have occurred at the country points and denied that any violations of any kind had been committed in the sale of hogs at either posted yards or country points.

This matter was heard by an Examiner and, in due course, was heard by the Judicial Officer, as the delegatee of the Secretary of Agriculture, who imposed the suspension, the review of which is herein sought.

(b) JURISDICTION AND VENUE

Jurisdiction is founded on Sections 1032 and 1034 of the Act of December 29, 1950, 64 Stat. 1129, 1130, 5 U.S.C. Secs. 1032, 1034.

Venue is founded on Section 1033 of the Act of December 29, 1950, 64 Stat. 1130, 5 U.S.C. Sec. 1033.

(c) THE GROUNDS UPON WHICH RELIEF IS SOUGHT

1. Petitioners' Registrations under the Packers and Stockyards Act, 1921, as amended, to do business on the various posted stockyards throughout the United States, are valuable and substantial property rights. The action of the Secretary herein complained of deprives petitioners of these valuable and substantial property rights without due process of law.

2. The Secretary of Agriculture has acted in excess of his jurisdiction and authority, in respect of the matters and things alleged to have occurred at points other than posted stockyards, as that term is defined in the Act as of the time of the alleged occurrences.

3. Petitioners were denied the full and fair hearing required by the Act, the Administrative Procedure Act, 5 U.S.C. 1001, et seq., and the Fifth Amendment to the Constitution of the United States, in that, among other things, the Secretary acted on a record which is void of any evidence, much less substantial evidence.

4. Petitioners were denied the opportunity to achieve compliance, as provided for and required by Section 9(b) of the Administrative Procedure Act, supra, 5 U.S.C. 1008(b), notwithstanding that petitioners many times stated their willingness and desire to comply with the Act and rules and regulations, as such were interpreted and applied by the Secretary.

5. Petitioners have been denied a full and fair hearing in that, among other things, a government witness was permitted to testify, over the objection of petitioners, to the writing contained in certain books and records, notwithstanding that such books and records were not in the hearing room and not available for either examination or cross-examination by petitioners.

6. Petitioners have been denied a full and fair hearing and have suffered an invasion of their constitutional rights in that, among other things, the investigation herein which produced all of the evidence adduced against the petitioners, and upon which the Secretary took the action herein complained of, was illegal, improper, and in violation of an agreement and understanding reached by and between the parties. Moreover, such search and seizure was conducted in an area in which the Secretary had no jurisdiction. As a result, the action of the Secretary herein complained of is in violation of Section 1008(a) of the Administrative Procedure Act, supra.

7. Petitioners have been denied a full and fair hearing in that, among other things, the Secretary, in taking the action complained of, accepted certain weight figures tendered by the government as establishing the buy weight of certain hogs, but refused to accept identical evidence tendered by the petitioners as to the sell weight of such hogs. This action of the Secretary was arbitrary, unreasonable and capricious.

8. The Secretary erred in dismissing the Petition for Rehearing filed by the Petitioners on September 19, 1960, (Exhibit G), in that, among other things, (1) finding that "there is no way of separating the hogs originating at posted stockyards from the hogs originating at unposted points to ascertain at what weights the hogs from posted yards

were sold," (2) finding that petitioners adduced no probative evidence of reweighing of the hogs involved, and (3) in finding that the Secretary of Agriculture has not approved or authorized the use of summary or memorandum scale tickets. (Order Dismissing Petition for Rehearing, etc., Exhibit F).

9. The Secretary erred in refusing to reconsider his decision in the light of the petitioners' allegation and offer to prove that petitioners' operations subsequent to September 2, 1958, when the Packers & Stockyards Act, 1921, was amended (Public Law 85-909, 85th Cong., 72 Stat. 1749, et seq.), so as to govern other than posted stockyards, on a comparable gross business, disclosed an actual gain in weight in the sale and handling of hogs - proof that the Secretary's findings were clearly erroneous, arbitrary, unreasonable and capricious, and that such findings as were made were contrary to the evidence of record.

10. The Secretary further erred in receiving in evidence and grounding his decision on a disputed so-called affidavit. Such affidavit was not competent and its receipt in evidence, and the action taken thereon, was clearly error.

11. The Secretary further erred in finding that action taken by petitioners pursuant to the directions and instructions of the Bureau of Animal Industry, constituted wilful violations of the Act and rules and regulations thereunder.

12. The Secretary further erred in finding as wilful violations the change in head count of hogs when the evidence clearly showed that such changes were accepted practices, sanctioned by custom and usage on the St. Louis National Stockyards, National Stockyards, Illinois, at which such violations were alleged to have occurred.

13. The Secretary further erred in his interpretation and application of the rules and regulations governing the making of scale tickets in connection with the sale of hogs at the St. Louis National Stockyards in finding that the so-called "switching" of hogs was in wilful violation of such rules and regulations and the Act.

14. The Secretary further erred in finding the alleged violations

to be "wilful." In truth and fact no wilfulness was present, and no evidence was adduced to prove that such were wilful.

(d) THE RELIEF PRAYED FOR

WHEREFORE, petitioners respectfully pray:

(A) That copies of this petition be served on the respondents herein, and that the respondents shall file in the office of the clerk of this Court the record on review as provided for in Section 1036 of the Act of December 29, 1950, 5 U.S.C. 1036, and in Rule 38 of the General Rules of the United States Court of Appeals for the District of Columbia Circuit;

(B) That this court review said orders of the Secretary of Agriculture;

(C) That upon such review by this court that said orders be held invalid and be set aside, and

(D) That petitioners have such other and further relief as this court may deem proper and appropriate in the premises.

Respectfully submitted,

Ben Ivan Melnicoff
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Counsel for Petitioners

October 19, 1960

EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

1 UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Harry Lee Sparks and Rex Wanda
Sparks (presently d/b/a H. L.
Sparks and Company, H. L. Sparks
& Company of Bushnell, and H. L.
Sparks & Company of Peoria),

Respondents

P & S Docket No. 2261

* * * * *

The above-entitled matter came on for hearing before the Secretary of Agriculture, at 10 a.m., Jack W. Bain, presiding.

* * * * *

2 PROCEEDINGS

PRESIDING OFFICER BAIN: Please come to order.

This is a hearing in P & S Docket No. 2261, in re H. L. Sparks and Company, respondents.

I am Jack W. Bain, Office of Hearing Examiners, U. S. Department of Agriculture, Washington, D. C.

This hearing is being reported. Anyone who wishes a copy of the transcript should order it from the reporter.

Who appears for the complainant?

MR. MILLER: Lowell E. Miller, Office of the General Counsel, United States Department of Agriculture.

PRESIDING OFFICER BAIN: And for the respondent?

MR. MELNICOFF: Ben Ivan Melnicoff, 821 Fifteenth Street, N. W., Washington 5, D. C.

PRESIDING OFFICER BAIN: Are there any preliminary matters before we get into the evidence?

MR. MELNICOFF: Mr. Examiner, there was a motion filed by me Wednesday last which raised a question stemming from the submission to me on the day before, that is Tuesday, a week ago today, of a proposed exhibit. That matter is still before the Examiner.

Furthermore, if the Examiner will refer to his last ruling dated
March 16, 1959, at the bottom of that page on the first page there is a
statement that certain matters were left open to be considered when
the hearing resumed. To the extent that the preliminary matters are
3 raised by those two classes of materials I believe you have what
might be called preliminary matters.

PRESIDING OFFICER BAIN: I guess the ruling on the motion for a continuance from today to May should be the first order. I don't see that a continuance is necessary. I think we'd better go ahead. We may come to a stopping place but if we do we can take it up at that time.

MR. MELNICOFF: As I understand it, Mr. Examiner, in view of the fact that the exhibit is not before you, the one that we are referring to --

PRESIDING OFFICER BAIN: Yes, you sent me a sample copy of one or two pages, that's all I have seen.

MR. MELNICOFF: Would it be in order, then, for me to understand that we may ask you to reconsider the ruling at such time as the paper is formally presented to you?

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: Is that the context of which you are making your ruling?

PRESIDING OFFICER BAIN: I don't think there is any necessity for continuance now. There may be if that exhibit is offered.

MR. MELNICOFF: So we waive no rights with respect to that matter at all.

PRESIDING OFFICER BAIN: That's correct.

4 MR. MELNICOFF: Now, with respect to the other matters we raised as to jurisdiction.

PRESIDING OFFICER BAIN: Yes, on the authority of the Secretary to delegate authority to sign complaints and the matter of getting into compliance?

MR. MELNICOFF: And also the matter that there is no jurisdiction of this matter insofar as the complaint alleges matters occurring at points other than posted yard. * * *

* * * * *

38 PRESIDING OFFICER BAIN: I will have to deny the motion to dismiss at this time, but of course when all the facts are in you are welcome to submit whatever further arguments you have on the subject.

* * * * *

MR. MELNICOFF: I wish now to address myself very briefly to the matter which concerns the opportunity to get into compliance.

* * * * *

45 PRESIDING OFFICER BAIN: All right, sir. We have to take the complaint still as it is written. We have no evidence to go on yet. I happened to have in my pocket when I came on this trip, by accident, a case that I believe I cited, in a perishable agriculture commodities act report which I made two weeks ago. The case is Mercado, M-e-r-c-a-d-o, v. Brannan, 173 fed.2nd, 544, at page 555, Circuit Court of Appeals for the First Circuit, 1949, certiorari denied by the Supreme Court, 338 US 820, and again 896. I copied this quotation. "Wilfulness in violating a regulatory statute implies not so much malevolent design as action with knowledge that ones acts are proscribed or with careless disregard for their lawfulness or unlawfulness." It
46 seems to me that that disposes of that question.

MR. MELNICOFF: Mr. Examiner, let me say this, how that can dispose of that question is at the moment not clear to me. Merely by describing the action as wilful and defining wilfulness in the liberal term that that case appears to do, then, of course, apparently that eliminates the requirement that an opportunity to achieve compliance shall be given.

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: How do you know that the action is wilful?

PRESIDING OFFICER BAIN: As I say, we have to go by the complaint, that's all we have to go on now. The question now is on the complaint and the complaint says it was wilful.

MR. MELNICOFF: My statement, then, that all an agency has to do in order to eliminate 9(b) is to allege the act to be wilful.

PRESIDING OFFICER BAIN: You might have to prove it.

MR. MELNICOFF: Yes, but insofar as going ahead with the hearing and incurring the expense and all the attendant bothers and hardships that's part of the penalty, I guess you pay for living in a civilized group.

PRESIDING OFFICER BAIN: That expresses it pretty well.

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47 PRESIDING OFFICER BAIN: Do you have anything else?

MR. MELNICOFF: Nothing further, Mr. Examiner, at this time, except in order that there be no mistake, in the answer I have raised several other arguments, jurisdictional and otherwise. The fact that argument is not submitted upon them, I ask they be recognized, that that does not constitute a waiver thereof, that they continue through the case and are available to me to raise at an appropriate time as the case goes on.

PRESIDING OFFICER BAIN: It may be understood that failure to argue any point at this time does not waive it.

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MR. MILLER: Mr. Sherman, please.

EARL W. SHERMAN

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

* * * * *

48 DIRECT EXAMINATION

BY MR. MILLER:

Q. Will you state your full name and address, please? A. Earl W. Sherman, 1131 Wabash, Belleville, Illinois.

Q. What is your occupation, Mr. Sherman? A. I am an auditor in charge of the auditing in the St. Louis District in the United States Department of Agriculture, Agricultural Marketing Service, Livestock Division, Packers and Stockyard Branch.

Q. What are your duties, Mr. Sherman? A. I, among other things, audit registrants, commission firms, dealers, stockyard companies, packers, anyone subject to the Packers and Stockyards Act. I receive and analyze annual reports from the registrants, stockyard companies, and packers, and have to be able in the course of my duties to recognize

49 all records pertaining to stockyard transactions and be able to trace livestock as it comes into commerce and on through commerce.

Q. Do you perform these duties in any particular area or district? A. I am assigned to the St. Louis District. However, we are also subject to call any place in the United States.

Q. What area is included within the St. Louis District? A. The eastern half of Missouri and the southern half of Illinois.

Q. Are you responsible for all auditing work under the Packers and Stockyards Act of the books and records of all market agencies, dealers, stockyard companies, stockyard owners, and packers within that district? A. I am.

Q. How long have you been employed as an auditor with the Packers and Stockyard Branch, Mr. Sherman? A. Approximately twelve years, eleven and a half to twelve.

Q. And have you been performing the duties which you just described during that period of time? A. I have.

Q. What did you do prior to your employment as an auditor with the Packers and Stockyards Branch? A. I was an auditor with the general accounting office of the United States under the Controller

50 General.

Q. Did you do any other auditing work other than your work with the general accounting office prior to your employment with the Packers and Stockyards Branch? A. Immediately prior to that I was in the army for three years but prior to that I was a heavy equipment auditor with the contracting company building army camps for a period of about around three years. Prior to that I was a traveling auditor for a mercantile company, P. H. Hartman Mercantile Company. I operated thirty-seven stores in the Iowa-Illinois-Missouri tri-state area. That was for about six or seven years.

Q. How long have you been actively engaged in auditing work, Mr. Sherman? A. Roughly about 20 years.

Q. As a result of your auditing work with the Packers and Stockyards Branch are you thoroughly familiar with all types of accounts, records, and memoranda kept by a person subject to the Packers and Stockyards Act? A. I am.

Q. Did you have occasion, Mr. Sherman, during 1956 to examine the books and records of H. L. Sparks and Company of Springfield, Illinois? A. Yes, I did.

Q. And what, if anything, did that examination disclose with
51 respect to the records kept by H. T. Sparks and Company of Springfield, Illinois, pertaining to the disposition of hogs purchased at that stockyard?

MR. MELNICOFF: I object to that, Mr. Examiner. He can't testify as to what those records showed. * * *

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PRESIDING OFFICER BAIN: As I understand the law, the witness can testify from the records if they are present in the hearing room.

MR. MELNICOFF: That's correct.

PRESIDING OFFICER BAIN: It sounds to me like the objection
52 is good.

BY MR. MILLER:

Q. Let me ask this question, Mr. Sherman. Based upon your examination of the books and records of H. L. Sparks and Company of Springfield, Illinois, can you state whether or not you found or discovered any records showing the disposition of hogs purchased by H. L. Sparks & Company of Springfield, Illinois?

MR. MELNICOFF: I object again, Mr. Examiner. That is the same question as the other one. Whether he found them makes no difference. If they are in existence they should be here.

* * * *

54 PRESIDING OFFICER BAIN: I believe the objection is good, I will have to sustain it.

BY MR. MILLER:

Q. Mr. Sherman, what records did you examine at Springfield, Illinois, when you examined the records of H. L. Sparks and Company?

MR. MELNICOFF: Objection unless he fixes the time.

PRESIDING OFFICER BAIN: He said in 1956.

MR. MELNICOFF: I don't recall that. Then may the time be fixed closer in '56? What was the time fixed? I'm sorry.

55 PRESIDING OFFICER BAIN: Did you say when you --

THE WITNESS: It was in 1956. I don't remember just the time. I have been up there, oh, many times. The specific time I just can't recall right now, the specific date, but the records that I examined were the sales records.

MR. MELNICOFF: I'm sorry to interrupt. I can't hear. Should we move closer?

THE WITNESS: I say the records I examined or wanted to examine were the sales records of the respondent which showed no disposition whatsoever.

MR. MELNICOFF: Objection to what is shown.

PRESIDING OFFICER BAIN: I think that objection is good. One thing wasn't clear. You said the records you examined or wanted to examine. Was there any distinction there?

THE WITNESS: Yes, there was no record, as I started to say, showing the ultimate disposition --

MR. MELNICOFF: I object to that, what they showed.

PRESIDING OFFICER BAIN: Well, he said there were no records. I think that's admissible.

MR. MELNICOFF: Mr. Examiner, I think this witness at this
time would be qualified to testify to what he examined. A statement
what particular books he examined and just by name and without any
56 further qualification of what they showed or what they didn't show.
Now the fact that there is a negative result he can't testify that there
was nothing there to show something. He is testifying negatively now.
Now he either examined some records or he didn't. If he examined some
records then he may tell us what they were and I believe it is Your
Honor's ruling that that's as far as he can possibly go.

PRESIDING OFFICER BAIN: I am sure he can answer whether he found the records he was looking for and that's what I understood him to do.

Is there any question pending?

MR. MILLER: No, sir.

MR. MELNICOFF: May I have the last question and answer read.

(Question and answer read as follows:

"PRESIDING OFFICER BAIN: One thing wasn't clear. You said the records you examined or wanted to examine. Was there any distinction there?

"THE WITNESS: Yes, there was no record, as I started to say, showing the ultimate disposition --")

PRESIDING OFFICER BAIN: Do you wish to complete your sentence?

THE WITNESS: Of the livestock in question.

MR. MELNICOFF: I move that answer be stricken because he
57 has used two qualifying words, actual and ultimate, and it shows
the difficulty we get into when the simple matter of records themselves
if they were here. Now the reasons advanced by Mr. Miller why they
aren't here in my judgment are of no consequence whatsoever. If he
wanted our records here all he had to do was issue a subpoena for

them, which we may honor or we may not. Until I see it I can't make any comment on it. The simple matter, what books and records the man testified he saw and examined, they ought to be here.

PRESIDING OFFICER BAIN: Well, you can't bring those he didn't see, I guess, he said he didn't find any. I will deny the motion to strike.

Go ahead, Mr. Miller.

BY MR. MILLER:

Q. Mr. Sherman, did you in your examination of the books and records of H. L. Sparks and Company of Springfield, Illinois, find any invoices or bills by H. L. Sparks and Company to packers covering the sale of the hogs purchased by H. L. Sparks and Company at Springfield? A. No.

MR. MELNICOFF: I object to that, Mr. Examiner, because the last phrase covering certain invoices about certain purchases at Springfield. Now those purchases are reflected in books and records. Why aren't those books and records here? How in the world can we in any way test the statement?

58 PRESIDING OFFICER BAIN: You can test him by the usual cross-examination.

MR. MELNICOFF: Can I examine him on -- but his direct examination must rest upon the books and records themselves. Why aren't they here?

MR. MILLER: All I asked him --

PRESIDING OFFICER BAIN: If a witness testifies that he couldn't find any records how in the world can you get them in the courtroom? You just can't do it.

MR. MELNICOFF: I understand he hasn't testified he couldn't find any.

MR. MILLER: The question is whether he found any bills and invoices.

PRESIDING OFFICER BAIN: I think the question is admissible.

MR. MELNICOFF: Very well. I object to it, but very well.

THE WITNESS: Did you get my answer, "no"?

THE REPORTER: Yes.

BY MR. MILLER:

Q. Did you request, Mr. Sherman, at the time you made this examination, to see all the books and records of H. L. Sparks and Company of Springfield, Illinois, pertaining to sales of hogs to packers?

59 MR. MELNICOFF: Objection, unless he specifies to whom the request was made.

MR. MILLER: He hasn't been asked that question yet, Mr. Melnicoff, he has been merely asked if he made the request.

PRESIDING OFFICER BAIN: I think he may answer.

MR. MILLER: I can't ask who he made the request of until I find out if he made it.

PRESIDING OFFICER BAIN: He may answer.

A. I did.

BY MR. MILLER:

Q. And of whom did you make the request? A. Mr. Harmes, Mr. H. C. Harmes.

Q. And did he deliver to you all the books and records of respondent? A. Yes.

Q. And did these records contain any documents showing sales of hogs by H. L. Sparks of Springfield, Illinois to packers? A. They did not.

MR. MELNICOFF: I object and move that be stricken. That's a conclusion.

PRESIDING OFFICER BAIN: I think it is a conclusion that he might make.

* * * * *

60 PRESIDING OFFICER BAIN: I think a man who has been in the auditing business for 20 years can testify whether he saw any records showing such sales or not. I will have to overrule the objection, or if it is a motion to strike at this stage, I will have to deny that.

61 BY MR. MILLER:

Q. Mr. Sherman, do you know whether or not during the year

1956 an audit was made under the Packers and Stockyards Act of the books and records of H. L. Sparks and Company of Peoria? A. Yes, it was.

Q. And do you know whether or not during the year 1956 an audit was made of the books and records of H. L. Sparks and Company of Bushnell? A. Yes, it was.

Q. Who made those audits? A. Mr. Melvin Smith, an accountant in Chicago at that time.

Q. Did you in connection with your duties under the Packers and Stockyards Act review those audits? A. I did.

Q. And will you state what those audits showed with respect to the records maintained by these two companies concerning sales of livestock to packers?

MR. MELNICOFF: I object to that, Mr. Examiner, unless the audits themselves are here. He is asking for a factual recitation of what they showed with respect to books and records. The best evidence is the audit reports themselves.

PRESIDING OFFICER BAIN: Do you have a copy of that audit
62 report here or not?

MR. MILLER: No, sir, I do not.

MR. MELNICOFF: It is in existence so far as I know.

PRESIDING OFFICER BAIN: Over objection I suppose we'd better wait and have the audit report.

BY MR. MILLER:

Q. Following the audit that was made of the books and records of respondent at the places which you have just mentioned, what, if anything, further was done by you concerning the auditing of books and records of respondent? A. After I determined that I couldn't find out where livestock was going to --

MR. MELNICOFF: I object to that, Mr. Examiner, without any qualification. I move that be stricken.

PRESIDING OFFICER BAIN: The objection is overruled. Go ahead, sir.

A. After I determined that I couldn't find out where livestock was going to that was purchased at Springfield Mr. McCoy and myself went to Chapin, Illinois, where the records of the sale of livestock purchased at Springfield was being kept by the respondent.

BY MR. MILLER:

Q. Did you and Mr. McCoy make an audit of the books and records of Midwest Order Buyers of Chapin, Illinois? A. We did.

63 Q. When was that audit made? A. Starting, I believe, the last week in January and continuing through February of 1957.

Q. And where physically was that audit made? A. In Chapin, Illinois, in the office of the Midwest Order Buyers.

Q. As a result of your audit of the books and records of Midwest Order Buyers, Mr. Sherman, were you able to learn anything with respect to the nature of the operation of Midwest Order Buyers? A. Yes, I was.

Q. Will you describe the operations of Midwest Order Buyers as shown by their books and records?

MR. MELNICOFF: I object to that on two grounds, Mr. Examiner. First, the operations of Midwest Order Buyers are, as we say, of no matter or consequence here.

Secondly, he is asking him to testify as a result of his examination of the books and records of the Midwest Order Buyers and those records are not here nor have they been requested to be here. We have his oral testimony where he is interpreting a set of books and records which are in existence. So far as this witness's testimony is concerned and presumably they could be brought in if asked for. Moreover, we allege there is no jurisdiction of this agency over those transactions. They are completely irrelevant.

64 PRESIDING OFFICER BAIN: Could you have all your records here by 10 o'clock in the morning?

MR. MELNICOFF: If a subpoena were issued, Mr. Examiner. When you say all my records, I will not consider an oral subpoena. This is a very important matter. The requirement is upon the complainant to prove this. Mind you, Mr. Examiner, here is a wilful violation. This has to be proved by probative evidence. It cannot be proven in any other way. This witness cannot testify and they haven't asked us for our books and records.

MR. MILLER: The witness has not been asked to testify with respect to entries in the books and records at this point. He has been merely asked to describe the nature of the operations of Midwest Order Buyers as reflected by the books and records which he audited.

MR. MELNICOFF: That's it, Mr. Examiner. There is a matter upon which there is no jurisdiction and again he is being asked to testify with what flows from books and records and he throws upon us, if this is admitted, the burden of refuting what he has to say. Now the burden of proof cannot shift, the burden of going forward, yes. The burden of proof is upon this agency.

PRESIDING OFFICER BAIN: Mr. Melnicoff, you represent the respondents.

MR. MELNICOFF: Yes, Mr. Examiner, I do.

65 PRESIDING OFFICER BAIN: I suppose it is within your power to get those books and records here by 10 o'clock in the morning?

MR. MELNICOFF: Which books and records, sir?

PRESIDING OFFICER BAIN: Well, we will just make it like this. Before I hold up this hearing I'm going to get all their books and records in here and if they don't bring them all, why, then I am going to start overruling some objections.

MR. MELNICOFF: Well, Mr. Examiner, I don't --

PRESIDING OFFICER BAIN: Here it is, the government is here ready to go ahead. Now maybe they should have subpoenaed your records. If they should have and didn't, I can do it right now and have them here in the morning. That doesn't stop the hearing.

MR. MELNICOFF: I am not interested in stopping the hearing. There seems to be a misunderstanding as to my position. I don't care whether the hearing is stopped or whether it goes forward. My only concern is I should be given a full and fair hearing within the purview of the Administrative Procedure Act. The fact that they have seen fit to subpoena them does that mean I have to comply with an oral subpoena?

PRESIDING OFFICER BAIN: No, sir, I have a blank subpoena and I will write it out.

MR. MELNICOFF: Will I have an opportunity to move to quash?
66 I can't see how the government can shortcut its trial of this matter. We had the hearing here, Mr. Examiner, because Mr. Miller has repeatedly said this is the place where all the books and records were and yet he has not asked us to produce a single book and record. I asked in writing that this hearing be held elsewhere. He said no, our witnesses are here and the books and records are here. He hasn't produced a single record. I don't know what I would do with this subpoena, but for me to surrender rights to facilitate their proceeding in the case, I can't understand.

MR. MILLER: Mr. Examiner, I cannot understand how the objections which respondent's counsel now makes or the objections which he has made heretofore have any applicability to the question which has been asked. This witness has not been asked any questions with respect to what specific data the records show. The witness has merely been asked what types of records have respondents maintained or have they not maintained. That's the only question he has been asked so far, are the types of records maintained and the nature of those records.

MR. MELNICOFF: I submit that is not the question before the examiner at this moment, types of records.

MR. MILLER: Respondents within 30 minutes can test the answers of this witness because the respondent's own records --

67 MR. MELNICOFF: We are only required to test those answers which are probative and which are properly admissible. You have never asked us to produce a single book or record up to this moment.

MR. MILLER: We don't have to. We didn't ask you to produce books and records which you didn't maintain.

MR. MELNICOFF: That's another question. If you submit a subpoena and you say we don't have one, then you have the right to go forward, submit an affidavit that the record doesn't exist, but so far so far as we know it does exist. I will cooperate fully and completely with the Examiner and with counsel here on every requirement that will facilitate this hearing, I certainly will do that.

PRESIDING OFFICER BAIN: Well, does the complainant want a subpoena for all the records of the respondents?

MR. MILLER: No, sir, I don't think a subpoena is necessary.

PRESIDING OFFICER BAIN: All right, sir.

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75 PRESIDING OFFICER BAIN: Well, what worries me most right now is the fact that a government investigator can make tabulations from books and records and they are admissible. Now, I am unable to see at this time the difference in oral testimony and testimony of that kind, but I am still bothered by the fact that the books are not in the room. During the lunch hour I went down to the library of the Circuit Court of Appeals and spent, I guess, about 40 minutes looking through the indexes and so forth of American Jurisprudence and I got close to the subject a number of times but I never did come right down to it. By what I saw in there and by the argument this afternoon I am not convinced that my ruling was wrong. Now, as I say, this witness could make tabulations from those books and records and they would be admissible here without the books being here and I don't see much distinction in the kind of testimony that was asked for this morning, but I can't clarify my thinking, maybe I will as it keeps rocking around. As of now I can't change any rulings, however, I am sure his answer that there were no records on such a purpose was admissible because if there had been records there showing such and such a thing he could have made tabulations from them and they would have been admissible so he has to be able to testify to that much. I'm sorry I can't draw the line. Maybe it will come to me and maybe it won't. But at this stage of the game we will just have

76 to go ahead.

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BY MR. MILLER:

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77 Q. And I believe I asked you if from your audit of the books and

records, from your audit of these books and records you were able to learn anything concerning the general operations of Midwest Order Buyers?

MR. MELNICOFF: I object to what he learned from these books and records.

MR. MILLER: I asked him if he was able to learn anything about the general operations of Midwest Order Buyers from this audit.

PRESIDING OFFICER BAIN: I'm sure he may answer that. I don't know about the next one.

A. I did.

MR. MELNICOFF: I'm sorry, I didn't get your answer.

THE WITNESS: I did.

BY MR. MILLER:

Q. Now, did those records disclose the manner in which Midwest Order Buyers purchased hogs?

MR. MELNICOFF: I object to that, Mr. Examiner, on the grounds heretofore stated and I trust the Examiner will agree with me that there is no need to repeat everything I have said heretofore and on the further ground that Midwest Order Buyers is not a party to this proceeding, they are not registered and they are not subject to the Packers and Stockyards 78 Act of 1921 as amended, as existed during the time that these alleged occurrences took place, and furthermore, I desire to call it, there has been no time statement in this examination. For those three grounds I object.

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MR. MILLER: Throughout this line of questioning Mr. Sherman I think it is obvious that my questions, my past few questions I have not yet asked Mr. Sherman any question with respect to what these records showed, specific facts that these records showed.

PRESIDING OFFICER BAIN: I think he may testify as to whether they kept records showing certain things or certain types of things, I guess that's a better expression. I have to overrule the objection.

* * * * *

79 MR. MELNICOFF: I asked when the audit was made, not the period of time it covered.

BY MR. MILLER:

Q. When were you there, Mr. Sherman? A. The last week of January, I believe it was, all of the month of February and, if I recall, one or two weeks in March of 1957.

Q. And what period of time did your audit cover? A. December of '55 through January of '57 with the exception of one month in November of 1956.

MR. MELNICOFF: May the record show that I object to this line of questioning?

PRESIDING OFFICER BAIN: That objection is overruled.

BY MR. MILLER:

80 Q. Did the records maintained by Midwest Order Buyers in Chapin, Illinois, show the places where hogs were purchased by Midwest Order Buyers? A. They did.

MR. MELNICOFF: Pardon me, I object to that question and move the answer be stricken for the reasons indicated. What the record showed, now, we don't have the records here and they haven't been asked for.

BY MR. MILLER:

Q. Was there a record maintained?

MR. MELNICOFF: Pardon me, I ask for a ruling.

PRESIDING OFFICER BAIN: Overruled.

BY MR. MILLER:

Q. Was there a record maintained by Midwest Order Buyers at Chapin, Illinois --

MR. MELNICOFF: I object.

MR. MILLER: Now he is objecting before I finish the question.

MR. MELNICOFF: Excuse me.

BY MR. MILLER:

Q. I will start the question again, Mr. Sherman. Was a record maintained by Midwest Order Buyers at Chapin, Illinois, of all of the purchases by Midwest Order Buyers of hogs? A. Yes.

MR. MELNICOFF: I object to that, Mr. Examiner.

81 PRESIDING OFFICER BAIN: The objection is overruled.

BY MR. MILLER:

Q. And did that record of purchases include purchases of hogs by H. L. Sparks & Company at either Springfield, Peoria or Bushnell?

MR. MELNICOFF: I object. Now he is asking him to recite what is in the record. I understood the ruling he could testify as to what books were there but not to go into what was in the records. Now he is saying what is in the record.

PRESIDING OFFICER BAIN: I am not asking you to, Mr. Miller, but would you object to stating at this time what you are attempting to show by that question?

MR. MILLER: I am attempting to show that records were kept by Midwest Order Buyers at Chapin, Illinois, covering the purchase and disposition of hogs which were at a posted stockyard.

PRESIDING OFFICER BAIN: I think it is admissible. The objection is overruled.

A. Yes, they kept a record, what I call a distribution book which showed all of their purchases, not only their country purchases but Springfield --

BY MR. MILLER:

Q. (Interrupting) In what form is that distribution book maintained?

82 MR. MELNICOFF: Now we are getting into the books and records themselves without them being here.

PRESIDING OFFICER BAIN: Well, as I said before, the witness could have made tabulations from those books and I think it is admissible.

MR. MELNICOFF: You have ruled that the government investigator could have made a tabulation and produced the tabulation without the books and records themselves being in the courtroom.

PRESIDING OFFICER BAIN: Yes, sir, in an official government investigation.

MR. MELNICOFF: That's precisely the thing I was worried about, concerned about, rather. There has been no showing that this was an official examination of matters subject to the Act and under the authority under which this witness operated, so he did obtain this information pursuant to his position. This was an unlawful search and seizure insofar as those records were concerned.

PRESIDING OFFICER BAIN: Not on the testimony.

MR. MELNICOFF: I raise the objection.

PRESIDING OFFICER BAIN: Go ahead.

MR. MILLER: I'm not sure what the question was.

PRESIDING OFFICER BAIN: The last question has been answered, hasn't it?

THE WITNESS: No, I believe he asked a question as to the form of
83 this distribution book.

MR. MILLER: I asked him in what form the distribution book was maintained.

A. This distribution book was a large book permanently bound as opposed to looseleaf and on each page was a summary, a detailed summary of all of the days purchases and all of the days, I would say proposed sales. In other words, on the left-hand side of the pages of this book were detailed purchases from each and every point that hogs came from to the records of Midwest, and on the right hand side of the same page would be a, what I called a mock-up of an invoice to a packer showing certain hogs listed on the left side of the page being put on certain of these mock-up invoices. The left side of the page was bracketed with some type of identification to each bracket showing the packer or disposition of the hogs on that side of the page and on the other side of the page the same hogs could be found grouped together going to a packer on a mock-up of an invoice. This mock-up of the invoice also showed the trucker's name that hauled the hogs to their final destination, it also showed the off-truck weights if they had them, it showed the same head, weight and price on that mock-up as it showed on the left side of the page coming from the various points.

BY MR. MILLER:

Q. Did this distribution book --

84 MR. MELNICOFF (interrupting): I now move that answer be stricken for the reason, among other things, the witness has demonstrated he is not reciting what he saw in there but his interpretation. Now, he used in there the words what he thought was a proposed sales, he called something a mock-up. Now, his answer is replete with interpretations. We have here a witness who is interpreting from recollection of almost two years ago, now, three years ago now what he saw three years ago in a book or record of an entity which is not before this -- in this proceeding, not before this Examiner, not subject to the Act and for whose books and records no subpoena has been issued. Now, to rely upon that kind of testimony as determinative of the issues involved in this case I respectfully submit, Mr. Examiner, is legal error.

PRESIDING OFFICER BAIN: I don't think so, I don't think the objection is good.

MR. MELNICOFF: Very well, I have moved to strike the answer and I gather you overrule the motion.

PRESIDING OFFICER BAIN: It is denied, yes.

BY MR. MILLER:

Q. Did this distribution book, Mr. Sherman, include recording of sales, all sales to packers by Midwest Order Buyers? A. It did.

85 Q. And did this distribution book include sales by Midwest Order Buyers of hogs purchased at posted stockyards by respondents? A. It did.

MR. MELNICOFF: Wait just a moment, I object to that and I trust that objection to the former question was included in the general objection. Now, would you please, Mr. Reporter, read that last question?

(Question read.)

MR. MELNICOFF: I don't understand.

Would you state the question again? I'm sorry, I can't understand it.

MR. MILLER: Would you read the question, please?

(Question read.)

MR. MELNICOFF: I object on the grounds that it states facts which are not in this record. Did it show sales by Midwest of hogs by respondents?

MR. MILLER: I think the question is clear, at least it seemed clear to me when it was read back.

BY MR. MILLER:

Q. Did you understand the question, Mr. Sherman? A. Yes, I did.

PRESIDING OFFICER BAIN: The objection is overruled. I believe he has already answered anyway.

BY MR. MILLER:

86 Q. Mr. Sherman, do you know -- strike that, please.

While you were making the audit at Chapin did you come in contact with any employees of Midwest Order Buyers? A. Yes, I did.

MR. MELNICOFF: May I have a continuing objection to all this evidence concerning Midwest Order Buyers so I will not keep interrupting or would you prefer that I object?

PRESIDING OFFICER BAIN: Oh, yes, Midwest Order Buyers is the respondent for this purpose.

MR. MELNICOFF: And may I have a continuing objection to all these questions?

PRESIDING OFFICER BAIN: Yes, that may be understood.

MR. MELNICOFF: Thank you, sir.

BY MR. MILLER:

Q. And who do you have contact with at Chapin? A. Mr. Ischer, the general manager of Midwest Order Buyers, Mr. Hazelrigg, the bookkeeper, Mr. Dodd Bryant, Mr. Gibson.

Q. And who did you first contact there with respect to looking at the books and records? A. Mr. Ischer, the general manager.

Q. Was any question raised concerning your looking at the books and records? A. No, not at that time.

MR. MELNICOFF: May he fix the time when he contacted Mr.
87 Ischer?

THE WITNESS: Approximately, I don't remember the exact date, it was in the last week of January, I believe, of 1957.

MR. MELNICOFF: Thank you.

BY MR. MILLER:

Q. Are invoices maintained by Midwest Order Buyers at Chapin covering sales of hogs by Midwest Order Buyers? A. They are.

Q. And do you know where those invoices are prepared? A. At Chapin.

Q. Who is in charge of the records at Chapin, do you know? A. Well, Mr. Ischer, of course, is the general manager there. Mr. Bryant and Mr. Hazelrigg both prepared the invoices and posted them in the books while I was there under my direct observation.

MR. MELNICOFF: I move that answer be stricken as not being responsive. He asked who was in charge of something.

PRESIDING OFFICER BAIN: I think that's up to the questioner on direct whether his answer is responsive or not. The motion to strike is denied.

MR. MILLER: I have a few other points on this background material but I think I will skip them at the present time and bring them in in another manner.

88 BY MR. MILLER:

Q. Mr. Sherman, I hand you a document which has been marked for identification purposes as Complainant's Exhibit No. 1. I ask that you examine it and state what it is, if you know.

MR. MELNICOFF: May I have a copy of that, please?

MR. MILLER: You have a copy. I will state for the record a copy of this was given to you on the 8th of April.

PRESIDING OFFICER BAIN: It may be marked Exhibit 1.

(Thereupon the document above referred to was marked for identification as Complainant's Exhibit No. 1.)

MR. MELNICOFF: I think it is fair to say that I did not receive a full copy on April 8th, I received only last night the second sheet which was not included in that exhibit. So I didn't have the entire exhibit on April the 8th. That's true, isn't it, Mr. Miller?

MR. MILLER: That is correct. In delivering this copy to counsel for respondent on the 8th of April the second page of this exhibit was omitted. That page was given to counsel for respondent yesterday.

PRESIDING OFFICER BAIN: You may proceed.

BY MR. MILLER:

Q. I have asked you, Mr. Sherman, to identify this document, if you will, please. A. This document marked Complainant's Exhibit No.
89 1 was prepared by myself or under my direction and it is a tabulation summarizing all packer sales by Midwest Order Buyers for a period from December 1, 1955, through January 31, 1957, with the exception of the calendar month November 1956. This tabulation shows the date of each sale in the first column on the left side, second column from the left side shows the packer it was sold to, the third column shows the original, points, country buying points or posted stockyards that the livestock originated at and was shipped from, the fourth column shows the number of hogs that was on the invoice, the fifth column shows the invoice weights, and the sixth column shows the purchase weights or buy weights, the seventh column shows reweigh weights if they were shown in the distribution book at Chapin or if we could find them in other data, the next column shows the off-truck weights as found in the distribution book, the next three columns are computations based on the previous figures.

Q. Mr. Sherman, where was this document that you are testifying from made? A. At Chapin in the office of the Midwest Order Buyers.

MR. MELNICOFF: Mr. Examiner, at this time may I ask that the yellow document there from which the witness is testifying be marked for identification as an exhibit? Apparently he is testifying from that and not from the piece of paper that I have here.

90 PRESIDING OFFICER BAIN: Is it necessary to have complainants and respondents exhibits or do you want to start with 1 and go through?

MR. MILLER: May I state for the record, Mr. Examiner, and also mention at this time something that I forgot to bring up before. In an effort to save time in this proceeding I have already affixed exhibit numbers to these documents and would, if the Examiner has no objection, like to refer to them by the numbers that have already been affixed to them.

PRESIDING OFFICER BAIN: Unless there is some reason otherwise we will do that.

MR. MELNICOFF: I have no objection.

MR. MILLER: In other words, this has already been marked Complainant's Exhibit 1.

MR. MELNICOFF: Then can this yellow one be marked 1-A or some other identifying number?

PRESIDING OFFICER BAIN: That's all right with me. Is there any objection?

MR. MILLER: Marking it for what?

PRESIDING OFFICER BAIN: Complainant's exhibit for identification.

MR. MILLER: It is already marked complainant's Exhibit 1.

PRESIDING OFFICER BAIN: We will mark the yellow one 1-A.
91 I guess that's what Mr. Melnicoff is referring to. What I have marked Complainant's Exhibit 1 is typewritten on white paper and what the witness is testifying from is on yellow paper and in pencil.

MR. MILLER: I am a little confused now. What the witness is testifying from is a tabulation which was prepared at Chapin, Illinois. The typewritten sheets which you have, Mr. Examiner, which Mr. Melnicoff has and which I have on my desk are merely copies of this tabulation which Mr. Sherman is testifying from. Under the rules of practice, of course, a copy of any exhibit should be made available to opposing counsel and to the Examiner and these white sheets which are typewritten are merely copies of the exhibit. In other words, when the yellow one was made four copies were not made but in order to comply with the rules of practice it was necessary to make the extra copies.

PRESIDING OFFICER BAIN: All right, sir.

THE WITNESS: Will this still be 1-A?

PRESIDING OFFICER BAIN: I don't think so.

BY MR. MILLER:

Q. Was this prepared in the office of Midwest Order Buyers?

A. Yes.

Q. Does this constitute the original work papers of the audit?

92 A. It does.

Q. Now, in general, Mr. Sherman, and without reference at this time to these columns in the exhibit will you state the source of the data which appears in that exhibit? A. I used what I called the distribution book, also the invoices, the actual invoices going to the packers, that is, copies of them that were maintained in the Midwest Order Buyers' office, I also used the buy sheets which came from the various country points and the posted stockyard buying stations as they were sent in to the Midwest Order Buyers' office. All of those records were kept there and each day the figures that was on the buy sheet also appeared in the distribution book.

Q. Were all the records which you have referred to maintained by Midwest Order Buyers at Chapin? A. At Chapin.

Q. Now, Mr. Sherman, I would like you to refer to, once again to each column of this exhibit and not only state what it shows but state where you obtained the particular information appearing in each column.

MR. MELNICOFF: Mr. Examiner may I object at this time? Doesn't the exhibit speak for itself?

MR. MILLER: The exhibit doesn't show where the information was obtained.

PRESIDING OFFICER BAIN: He may answer that.

93 A. Taking the first column, the date, that was obtained from the distribution book, also from the invoices. The second column, sold to, was obtained both from the distribution book and the invoices. The third column, shipped from, was obtained from the distribution book and from the buy sheets.

BY MR. MILLER:

Q. Now, with respect to column 3, what does column 3 show?

A. It shows --

MR. MELNICOFF: (interrupting) I object to that, Mr. Examiner, he is interpreting the exhibit and we haven't had an opportunity to cross-examine on it. The exhibit speaks for itself, what it shows.

PRESIDING OFFICER BAIN: Well, the exhibit is not in and this is explaining what is on it for the purposes of seeing whether it is admissible.

MR. MELNICOFF: I see, all right.

MR. MILLER: Certainly the document has got to be fully identified before it can be offered in evidence and before the Examiner can rule upon the question of whether or not it is admissible.

MR. MELNICOFF: Are you talking about the shipped from column, Mr. Miller?

MR. MILLER: I am talking about the third column in this exhibit.

94 MR. MELNICOFF: Shipped from, right?

THE WITNESS: The third column from the left.

A. (Continuing) It might be noticed in several cases I have names spelled out such as the first one, Bearing, that indicated that the entire 130 hogs come from Bearing.

Q. Directing your attention to the second column in there, two points, what does that mean? A. That means it came from two country points, not a posted stockyard.

Q. And is it correct that wherever the word points is used in column 3 it refers to buying points, country buying points of Midwest Order Buyers? A. Yes, other than posted stockyards and in some cases I abbreviated, put down PTS and it still means the same thing, that it was country points involved other than posted stockyards.

Q. Directing your attention to the seventh entry in column 3, Mr. Sherman, there is an entry Springfield 167. Will you state what that entry means? A. That means that 167 of the 488 hogs shown on the invoice came from Springfield Stockyards.

Q. And did you in the column 3 use any abbreviations for the word Springfield? A. At times, yes, down through the list I used SPG,

94 SPGFLD or various other designations starting with SP to denote Springfield.

Q. And in column 3 where would the word Springfield or such abbreviations appear, does it always refer to the Springfield stockyards? A. It does.

Q. And does the number always, immediately following such word or abbreviations always refer to the number of hogs in that particular shipment originating at that stockyard? A. That is correct.

Q. Directing your attention, Mr. Sherman, to two entries appearing under date of December 14, 1955, an entry Bushnell 128. Will you state what that means? A. That means that 128 of the hogs on the order to Val Decker which totaled 404 hogs came from Bushnell Stockyards, a posted stockyard under the Act.

Q. Who owns Bushnell Stockyards, Mr. Sherman? A. Mr. H. L. Sparks and Rex Wanda Sparks.

Q. Did you throughout column 3 use any abbreviations for Bushnell? A. Yes, I did, I used BU, BUSH, various designations starting with the letters BU, it at all times means Bushnell and the numbers immediately following at all times means the number of hogs that came from that posted stockyards.

Q. Directing your attention to the next entry in column 3 I note
96 the entry Peoria 178. Will you explain that, please? A. That shows that 178 of the 326 hogs on the invoice to Home Packing Company came from the Peoria Stockyards which is a posted stockyards.

Q. Is that the Union Stockyards, Peoria, Illinois? A. That is right.

Q. And did you use any abbreviations for Peoria in column 3 of this exhibit? A. Various abbreviations at times through it. PEO, I believe, PEOR, any of them that started with PE was Peoria.

Q. And the words Peoria and the appropriate abbreviation always refer to the Union Stockyards at Peoria, Illinois? A. That is correct.

Q. Now, will you continue, Mr. Sherman, and state what column 4 shows and where you obtained that information? A. Column 4 shows the number of hogs that were on the invoice to the various packers. This was obtained from the invoices and checked against the distribution book.

Q. And column 5? A. Column 5 was the invoice weights. Those weights were all taken off of the invoices. Column 6 was taken from the distribution book and the purchases and checked against the buy sheets from the various country points and posted stockyards. The next column reweight weights, that was a figure we had to ask in the office what it meant. Usually we found it under the total weight that was shown on the mock-up of an invoice. This mock-up or whatever you want to call it of the invoice would have the weight from each station as shown on the left side and after the entire group of hogs was totaled immediately below the weight, buy weight as shown in that mock-up invoice would be another figure which we have here as a reweigh weight. We were told by Mr. Ischer, also by Mr Hazelwigg that is what that figure meant.

97 MR. MELNICOFF: Pardon me, I object to that last statement. That is purely hearsay, what they were told by someone else.

PRESIDING OFFICER BAIN: That's an explanation of the records given by someone apparently in authority on an official investigation and I think it is material to one of the exceptions of the hearsay rule.

MR. MELNICOFF: It is not part of this proceeding. I objected.

PRESIDING OFFICER BAIN: The objection is overruled.

MR. MELNICOFF: All right.

A. We put this figure in because it was a part of their books and records and because we were told that that's what it was. We did not want to leave anything out that had any bearing on this particular investigation, it was there.

MR. MELNICOFF: Pardon me. I object again, Mr. Examiner, I ask in view of my previous objection that he give the substance of the

98 conversation and not his conclusion. I also object to his interpretative remarks by what he was trying to do. That, I think, is clearly inadmissible. There are two parts to that objection.

PRESIDING OFFICER BAIN: I think it may stay in the record.

MR. MELNICOFF: And I have also objected to, ask that he be required to state the substance of what he was told by these people.

PRESIDING OFFICER BAIN: I don't see that that's necessary in this case.

MR. MELNICOFF: Very well.

PRESIDING OFFICER BAIN: It seems to me that it is a perfectly common instance when an auditor finds something not clear he would ask somebody in charge there to find out and I think that's very much admissible in describing what it means to the auditor.

MR. MELNICOFF: Yes, but, Mr. Examiner, what I am driving at is we should be told the substance of what he was told rather than his conclusions of what he was told.

PRESIDING OFFICER BAIN: I thought that's what the witness said.

MR. MILLER: May I make one comment, sir?

PRESIDING OFFICER BAIN: Yes.

MR. MILLER: At this point Mr. Sherman is merely trying to
99 explain, he is having some difficulty, but he is merely trying to explain where he obtained all the information that appears on this exhibit and thus far his testimony has related only to that.

THE WITNESS: Shall I proceed?

BY MR. MILLER:

Q. I'm not exactly sure where you were but if you can recall I would like for you to proceed. A. The next column is off-truck weights if shown. Those always appeared on the right-hand side of the distribution book in the mock-up of the invoice. At the left side of this mock-up the trucker's name would be shown who hauled each grouping of hogs on this mock-up. Immediately above or below or out to the side sometimes of his name would be these figures that appear in this off-truck weights. Again, I had to ask the manager what those figures meant. There was no heading in the book to denote what they meant. I assumed that they were off-truck weights but I still asked and that's what he told me they were, weights that they had obtained from the packers showing the off-truck weights at destination. Where they had them they put them in their book. The next column, of course, is the weight difference, that is, a difference between, in some instances, where there was no reweigh weight shown, the difference between the purchase weight and the invoice weight. If there was a reweigh shown that difference shown in the third
100 from the last column on the right side was the difference between that reweigh weight and the invoice weight.

The next to the last column headed "Weight Deducted" was if that difference shown in the column before was less than the reweigh or purchase weight than I put it in the weight deducted. If the weight shown in that third from the last column was greater than the reweigh or purchase weight, then it appears in the last column as weight added.

Q. Throughout your testimony concerning this exhibit, Mr. Sherman, whenever you have referred to an invoice or to the distribution book, were you referring to invoices and a distribution book maintained by Midwest Order Buyers in Chapin, Illinois? A. That is correct.

Q. Directing your attention, once again, Mr. Sherman, to column 3 of this exhibit, I notice that for some months or some periods the column is headed "Shipped From" and on other pages it is headed "Point of Origin". Irrespective of the heading of that column does that column always refer to the place where the hogs were purchased, place or places where the hogs were purchased? A. That is correct.

Q. And with reference to column 6 of this exhibit, Mr. Sherman, I notice that at some places in the exhibit it is headed "Buy Weight" and
101 at other places in the exhibit it is headed "Purchase Weight". Irrespective of the heading of the column does column 6 always refer to the weights at which the hogs were purchased by Midwest Order Buyers? A. That is correct.

MR. MILLER: Mr. Examiner, at this time I would like to ask Mr. Sherman a couple of questions about this exhibit which have no relevancy to any issue in this proceeding but are merely for clarification purposes only.

BY MR. MILLER:

Q. Mr. Sherman, directing your attention to entries in this tabulation beginning with the month of January 1956 I notice that they are in a slightly different form than the entries made for the other days. Will you explain that, please? A. On our work papers for a few pages, and in order to assist anybody who might be working on this record, for a few days business we not only stated a number of points in the third column, we wrote them out showing the number of hogs from each point

that went on each invoice and their weights and then totaled. For instance, on January 2, '56, to Home Packing Company, 347 hogs weighing 87,155 pounds on the invoice, and purchase weights of 86,330 were composed of 81 hogs from Mount Sterling weighing 17,265, nine hogs from Golden weighing 2,400 pounds, eight hogs from Bowen weighing 2,480 pounds, 26 hogs from Decatur weighing 6,075, 59 hogs Palmyra, Missouri,
102 weighing 17,210, 13 hogs from Griggsville weighing 3,330, 36 hogs from Jacksonville weighing 9,810 and 116 hogs from Berry, Illinois, weighing 26,760 for the total weight as shown in this tabulation. This was done on about a week, I believe, or seven days, January 2nd, January 3rd, January 4th, 5th, 6th.

MR. MELNICOFF: Sorry, we can't hear you.

A. (Continuing) It was done on January 1st, 2nd, 3rd, 4th, 5th, 6th and 7th.

MR. MILLER: Mr. Examiner, my only purpose in asking that question is to make it clear for the record and for counsel and respondent and you that for one week in this audit Mr. Sherman put down not only the total purchases for a particular -- in connection with a particular transaction but listed the purchases made at each point. I merely wanted to point out on the record that the copy of this tabulation which you have does not list those individual points, it merely lists the total.

PRESIDING OFFICER BAIN: Yes, sir.

This may be marked Exhibit 2.

(Thereupon, the document above referred to was marked for identification as Complainant's Exhibit No. 2.)

MR. MELNICOFF: Is he offering Exhibit 1 in evidence now?

103 MR. MILLER: No, sir.

BY MR. MILLER:

Q. Mr. Sherman, I hand you an exhibit which has already been marked as Complainant's Exhibit 2. I ask that you examine it and state what it is, if you know. A. Complainant's Exhibit No. 2 is a tabulation taken directly from Complainant's Exhibit No. 1. There are, I believe, 45 transactions listed on Complainant's Exhibit No. 2 which also appear in in Complainant's Exhibit No. 1. These particular transactions all have hogs, some of which originated from posted stockyards.

Q. And these transactions covered by Complainant's Exhibit No. 2, are they transactions which are set forth in Complainant's Exhibit No. 1? A. They are.

Q. And the date appearing on Complainant's Exhibit No. 2 was taken from Complainant's Exhibit No. 1, is that correct? A. That is correct.

Q. And was this exhibit prepared by you or under your direct supervision? A. That is correct.

Q. Now, with respect to each of these transactions set forth in Complainant's Exhibit No. 2, Mr. Sherman, did you make a check of the books and records of Midwest Order Buyers at Chapin, Illinois, to determine whether or not any reweigh weights were shown in such books and
104 records in support of the invoice weights? A. I did.

Q. And did you find any reweigh weights to support the invoice weights? A. As I stated before, the only reweigh weights we found in any form were the figures that appeared below some of the mock-up invoices in which we had to ask what the figures meant. Mr. Ischer informed us that that figure meant reweigh weights. We could find no records to back those up, although we did ask for scale tickets or any supporting data that they had. We did not receive any.

Q. Well, did Mr. Ischer furnish you with any reweigh figures in support of the invoice weight figures shown on Complainant's Exhibit No. 2? A. No.

MR. MELNICOFF: Mr. Examiner, I submit this question as well as the two previous ones have gone far beyond merely beyond identifying and qualifying the exhibit. I said nothing about them because I thought they were preliminary questions but I now move they go out. This is testimony on the issue, not upon the admissibility of the exhibit.

PRESIDING OFFICER BAIN: I think it is proper. The objection is overruled.

BY MR. MILLER:

105 Q. Did you request to be shown any scale tickets in support of the invoice weights, Mr. Sherman? A. Yes, we did.

Q. Were you furnished any scale tickets? Who did you request, incidentally? A. We not only requested the invoice scale tickets, we requested purchase scale tickets and reweigh scale tickets, any scale tickets and was informed time and time again that they did not retain any scale tickets that they had made, that even the purchase scale tickets they normally threw away in a few days.

Q. Subsequent to your examination of the books and records at Chapin, Mr. Sherman, did you examine the books and records of respondents at Springfield, Illinois?

MR. MELNICOFF: I object to that, Mr. Examiner, that's gone beyond this exhibit now.

PRESIDING OFFICER BAIN: Is that for the purpose of the present exhibit?

MR. MILLER: Well, it is for the purpose of the present exhibit to show that after Mr. Sherman prepared this audit he took additional steps to determine whether or not any of the figures shown in this exhibit could be substantiated. I can ask the question at a later time after the exhibit has been offered.

PRESIDING OFFICER BAIN: All right, we will wait, then, since
106 there is an objection.

This may be marked Complainant's Exhibit 3 through 6.

(Thereupon the documents above referred to were marked for identification as Complainant's Exhibits Nos. 3 through 6.)

MR. MELNICOFF: Mr. Examiner, do I understand that Mr. Miller has not yet offered Exhibits 1 or 2?

PRESIDING OFFICER BAIN: Yes, sir.

MR. MELNICOFF: They were merely marked for identification, right?

PRESIDING OFFICER BAIN: Yes, sir.

BY MR. MILLER:

Q. Mr. Sherman, I have handed you documents which have been marked for identification as Complainant's Exhibits Nos. 3, 4, 5 and 6. I direct your attention first of all to Complainant's Exhibit No. 3 consisting of four pages. I ask that you examine it and state what it is, if you know. A. Complainant's Exhibit No. 3, page 1 and page 2 are copies of the Midwest Order Buyers distribution book which we found at Chapin for the date 4/17/56 which shows the left-hand side of the page or the purchase side as it appeared in the book that day.

Q. Now, do I understand that the entries which appear on pages 1 and 2 of Complainant's Exhibit No. 3 are copies of entries as they appeared on the left-hand side of a page in Midwest Order Buyers' distribution

107 book, is that correct? A. That is correct.

Q. Now, with reference to the names appearing in the left-hand column, what do those represent? A. Those are the buying points which the hogs listed here came from. From Golden, Mount Sterling, Griggsville, Jacksonville, Peoria and Bushnell.

Q. Are Golden, Mount Sterling, Griggsville and Jacksonville posted market under the Act? A. They are not, they are country buying points of Midwest Order Buyers.

Q. And is Peoria, is that a posted stockyard? A. Peoria and Bushnell are both posted stockyards.

Q. Now, these entries which you have described, do they in any way show the disposition of the hogs purchased at these various points? A. Yes, they do. There is a figure representing the number of hogs, the weight and the amount or cost.

Q. Which column represents the weight of the hogs, Mr. Sherman? A. The second from the last column.

Q. The middle column? A. The middle column of the figures.

Q. And what does the third column represent? A. The third column is the cost. The first column is the number of head. As you will

108 note on this first one, from Golden they have the first five entries bracketed with the letters SW after them which meant that those particular

hogs were to be put on the Swift order for that day. You drop on down to the next one, Mount Sterling, you can see several on that one, OM, I believe that was Oscar Mayer. The next bracket is SW or Swift and the next bracket is Home Packing Company.

Q. Now, these entries, Mr. Sherman, which are set forth on pages 1 and 2 of Complainant's Exhibit 3, do they accurately show the entries as they appeared in the distribution book of Midwest Order Buyers? A. That's correct.

Q. Now, going to page 3 of the exhibit will you state what that shows? A. Page 3 of the exhibit is what I have been talking and been calling a mock-up of an invoice. It appears on the same page and on the right-hand side of the page, which shows the --

Q. (Interrupting) Of the distribution book? A. Of the distribution book. It shows the number of head from each one of the points, the weight and the amount identical to the other side of the book with the exception that they have grouped them, that is, they have lumped them in one heading. For instance, all from Golden were put in one figure of 27 head.
109 Over on the other side of the head it is listed 5, 1, 5, 15 and 1. The weight 12,280 is also the same weight that was shown in that first bracket to SW or Swift on the other side of the page. The amount of money, thirteen fifty-nine ought two also totals the same as the figures, five figures bracketed to SW on the other side of the page from Golden. Then you have Mount Sterling, Griggsville and Jacksonville, the hogs coming from those points grouped together and you will see the name Gaines in the first column on the left side who is the trucker that hauled those 68 hogs and the purchase of 29,075 to Swift and Company. You also see a figure above the name Gaines, 29,510 which is the off-truck weight that I was talking about before which appears on the Complainant's Exhibit No. 1 under the heading of off-truck weights if shown.

The next three, Peoria, Bushnell and C & N are the same as appears, Peoria and Bushnell, rather, C & N is the trucker, 83 head from Peoria, 12 from Bushnell totaling 95 head and those have the same weight and money as is shown on the left side of the distribution book on the same page. We had no off-truck weights on that 95 head.

Q. Does the entry set forth on page 3 of Complainant's Exhibit No. 3 accurately show the entry as it appeared in the distribution book of Midwest Order Buyers? A. It does.

110 Q. Is it possible by looking at these entries, Mr. Sherman, to determine what disposition was made by Midwest Order Buyers of the hogs which were purchased at these various places? A. That's relatively simple to tell where they went, merely by comparing the left side of the page to the right side of the page. In fact, the left side of the page shows where they are going and the right side of the page merely confirms it.

Q. Is it correct to state, then, Mr. Sherman, that the so-called mock-up which you have described and which appears on the mock-up invoice, rather, which you described which appears on page 3 of this exhibit is a consolidation for each packer of the hogs which have been purchased by Midwest Order Buyers and as is shown on the left-hand side of the distribution book? A. That is correct.

Q. Will you explain what page 4 of this exhibit is, Mr. Sherman? A. Page 4 was a copy of the invoice that was sent to Swift & Company covering the 163 head of hogs shown on the pages 1, 2 and 3 of Complainant's Exhibit No. 3.

Q. Is this a copy of an invoice appearing in the books and records of Midwest Order Buyers at Chapin? A. Yes.

111 Q. And how do you know that this invoice covers the same hogs as are set forth in respondents' distribution book as going to Swift & Company? A. We had the mock-ups on it, as shown in page 3, there was several of them for the day each one of them bearing the name of the company they were going to. We also had the invoices to work with, it was merely a matter of matching the invoices with the mock-ups finding first the name of the company, number of head, truckers any way to identify each invoice with each mock-up of the invoice as it appeared in the distribution book. This one, for instance, Swift & Company, National

Stockyards, there was 68 head hauled by Dale Gaines and 95 head hauled by Curtis and Gaines. Total, 163 head. There is no other invoice for that day that could possibly match this mock-up other than the one used.

Q. Directing your attention to Complainant's Exhibit No. 4, Mr. Sherman, which has been previously handed to you, I ask you if Exhibit No. 4 consists of three pages. I ask you to examine it and state what it is, if you know. A. Complainant's Exhibit No. 4 is very similar to Complainant's Exhibit No. 3 with the exception to eliminate work and because I was interested in this particular case with only one invoice I did not copy the total number of hogs coming from each one of the points shown, only those hogs that went to Swift & Company, mainly to save time and space. I had made a copy of Complainant's Exhibit No. 3 for the purpose of showing how it was kept and how it was used. Complainant's Exhibit No. 4 was for the purpose of showing only this 112 one particular invoice.

Q. Speaking of the purpose of these exhibits, Mr. Sherman, with reference once again to Complainant's Exhibit No. 3, what relevancy does Complainant's Exhibit No. 3 have to Complainant's Exhibit No. 1? A. Complainant's Exhibit No. 3, of course, the data appearing on Complainant's Exhibit No. 1 under the date of 4/17/56, sale to Swift & Company of 163 hogs will appear on Complainant's Exhibit No. 1.

Q. Is the procedure you described in the tracing of shipments of hogs in Exhibit No. 3 the same procedure that you followed in preparing Complainant's Exhibit No. 1? A. That is correct.

Q. Now, once again with respect to Complainant's Exhibit No. 4, do the entries on page 1 of this exhibit accurately show the entries, these entries as they appeared in the distribution book of Midwest Order Buyers? A. It does.

Q. And with reference to the left-hand column on this first page, will you state what that shows? A. The first column on the left-hand side shows the country buying points or posted stockyards that the hogs came from.

113 Q. What does the SPG mean? A. That means Springfield, the Springfield stockyards. MAC means Macon, QI means Quincy, RU means Rushville, AST means Astoria.

Q. Mr. Sherman, in making your audit of the books and records of Midwest Order Buyers at Chapin whenever you found entries in the distribution book showing a purchase of so many hogs at such a weight at Springfield did you later check the records of Springfield to verify those figures?

MR. MELNICOFF: I object to that, that's going beyond the exhibit.

PRESIDING OFFICER BAIN: It seems to me --

MR. MILLER (interrupting): Let me ask the question again.

BY MR. MILLER:

Q. With respect to the entries showing purchase of hogs at Springfield, did you at a later date check records of H. L. Sparks & Company in Springfield to determine whether or not those hogs had been purchased at these weights at Springfield? A. Yes, I did.

Q. And what did you find? A. I found that those were correct weights, purchase weights.

Q. With reference to page 2 of this exhibit, Mr. Sherman, will you
114 state what it shows? Will you state what it is and what it shows, please? A. Page 2 again is a partial copy of the distribution book of Midwest Order Buyers on the date December 1, 1955, and page 4 in that book which shows a mock-up invoice of the hogs shown on page 1 of Complainant's Exhibit No. 4, consolidated and totaled from each point showing the truckers that hauled them and the off-truck weights from each one of the truckers. It shows the number of points, or the names and the points the same as it does on page 3, total number of head, total weight and the total amount of money of the purchases.

Q. You state, Mr. Sherman, would you state where this so-called mock-up invoice appeared in the records with relation to the entries which are shown on page 1 of this exhibit? A. You will notice page 1 and page 2 both say partial copy of distribution book 12/1/55, page 4, they were both on the same page. One on the left side and on the right side of the page. Page 1 is the left side of this page 4 of the distribution book and page 2 of Complainant's Exhibit No. 4 was the right-hand side of that same page in that same book.

Q. Will you identify the data appearing on page 3 of this exhibit, Mr. Sherman, and state where you obtained this information and what it shows? A. This was a copy of an invoice found in the books and records of Midwest Order Buyers at Chapin which showed that 488 hogs

115 on December 1, 1955, were billed to Swift & Company invoiced at 146,005 pounds for $13,821.57, and trucked to Swift & Company by five different truckers, Obert Truck Service, W. O. Surratt, Prebe Brothers, McNay Truck Service and W. H. Redshaw. That trucking information, of course, appears also on the mock-up, the first one of two head, W.O.S. was their abbreviation for W. O. Surratt which came from Springfield and Obert is the same as the Obert Truck Service, 75 head, which also came from Springfield. Prebe Brothers, they hauled 132 hogs from Macon, McNay had 105 hogs from Quincy, and W. H. Redshaw had 84 hogs coming from Chapin, Rushville and Astoria.

Q. Mr. Sherman, according to the so-called mock-up invoice which is set forth on page 2 of this exhibit, 167 hogs purchased at Springfield, at the Springfield stockyards, Springfield, Illinois, were sold to Swift & Company. Is it possible to identify those 167 hogs in the invoice furnished to Swift & Company by Midwest Order Buyers? A. No, it is not.

Q. What relevancy, Mr. Sherman, does this exhibit, Complainant's Exhibit No. 4 have to Complainant's Exhibit No. 1? A. Complainant's Exhibit No. 4 will be found in Complainant's Exhibit No. 1 under the date of December 1, 1955. It will also be found on Complainant's Exhibit No. 2 and was prepared in the same manner or I should say No. 1, Complainant's Exhibit No. 1 was prepared from the same data as Complainant's Exhibit No. 4 has been prepared from.

116 Q. And the entries which you have described, Mr. Sherman, and which are set forth in Complainant's Exhibit No. 4, are they the same type of entries that you examined in connection with your preparation of the entire Complainant's Exhibit No. 1? A. That is correct.

Q. Directing your attention, Mr. Sherman, to the document which has been marked for identification as Complainant's Exhibit 5 and which has been previously handed to you, will you examine it and with reference to each page of the exhibit state what it is, if you know? A. Complainant's Exhibit No. 5 consists of three pages. Page 1 is a partial copy of the distribution book of Midwest Order Buyers under date of March 7, 1958, on page 87 of that book. Page 1 is a copy of the mock-up invoice for 639 hogs going to Hunter Packing Company which appears on page 87 of the distribution book.

Q. What does the entry in the first column, BUSH mean? A. It means Bushnell.

Q. What does the first column of figures represent? A. On the left-hand side, far left-hand side you will see some figures, a large figure 27925 over the name Gaines. That's the off-truck weight on the 137 head that Gaines hauled from Rolla and Carthage.

117 MR. MELNICOFF: May I have that last answer read, please?

(Answer read.)

MR. MELNICOFF: Thank you, I thought there was more to it than that, I'm sorry. Thank you.

BY MR. MILLER:

Q. Now, the first column of figures in this exhibit, Mr. Sherman, the column that starts with the figure 109, what does that represent? A. That's the number of hogs that came from each one of the points, the first 109 head from Golden, the next one 28 head from Carthage and so on down the line.

Q. What does the second column of figures represent? A. That is the weight on the hogs.

Q. And what does the third column represent? A. That is the cost or the purchase price.

Q. With reference to the second page of this exhibit, Mr. Sherman, would you state where the information was obtained appearing on this exhibit and what this exhibit shows? A. The second page was the partial copy of the distribution book which page 1 came off of, for the same date, March 7, 1956, of Midwest Order Buyers, which lists in more detail as appeared in the book the hogs coming from each point, country points and posted stockyards that appeared on page 1, the mock-up.

118 Q. What are the initials HTR following the brackets, what do they mean? A. That means Hunter, that's their designation for Hunter Packing.

Q. Hunter Packing Company? A. Hunter Packing Company, East St. Louis, Illinois.

Q. And was the mock-up invoice which appeared on the same page as these entries, was that mock-up invoice headed Hunter? A. It was headed Hunter.

Q. At the bottom of the page, Mr. Sherman, there is a notation from Bushnell "Bill to Midwest Order Buyers, Chapin, Covering 134 hogs". Will you explain that entry? A. The 134 hogs appearing on the mock-up from Bushnell weighing 26,570 pounds did not appear on the left side of the distribution book. They were on the bill or invoice from the Bushnell, H. L. Sparks & Company office that we found in Midwest Order Buyers' office which showed that they had 69 hogs weighing 13,550 pounds at $12.00 a hundred totaling $1,626.00 and 65 head weighing 13,020 pounds at $12.00, $1,562.40 totaling the 134 hogs at 26,570 pounds and $3,188.40 as appeared in the mock-up of the invoice on the page 87 of the distribution book at Chapin, Midwest Order Buyers. There were scale tickets with this invoice which indicated to us that they had been reweighed at Bushnell and appear here on these reweigh weights,

119 not on the original purchase weights.

Q. With reference to page 3 of this exhibit, Mr. Sherman, will you state what it is? A. Page 3 is a copy of an invoice on the books and records of Midwest Order Buyers at Chapin showing 639 hogs as they appeared in the mock-up distribution books, Midwest Order Buyers on page 87, billing the hogs to Hunter Packing Company of East St. Louis, Illinois, on March 7, 1956, the same date as appeared on the distribution book, the same number of hogs, 639, showing the trucks were prepaid.

Q. Is this the invoice covering the 639 hogs that are set forth in the so-called mock-up invoice as appears in Midwest Order Buyers' distribution book? A. It is.

Q. Directing your attention, Mr. Sherman, to Complainant's Exhibit No. 6 which has been previously handed to you, with reference to page 1 of this exhibit will you state what it is?

MR. MELNICOFF: Excuse me, Mr. Miller, this copy we have here is indistinct.

A. Complainant's Exhibit No. 6 is very similar to Complainant's Exhibit Nos. 3, 4,and 5 in material. It is merely again a partial copy of the distribution book of Midwest Order Buyers for the date May 1, 1956, showing on page 1 the left side of the distribution book covering
120 certain purchases, page 2 is the mock-up invoice of those same purchases and page 3 is the invoice, a copy of the invoice that was found in the books and records of Midwest Order Buyers covering the billing of the same hogs to Home Packing Company of Terre Haute, Indiana.

MR. MELNICOFF: Mr. Examiner, would you ask the witness to explain, is the word mock-up, m-o-c-k or m-a-r-k, mock-up or mark up?

THE WITNESS: M-o-c-k, a mock-up or facsimile would be maybe a better word.

MR. MELNICOFF: Thank you.

THE WITNESS: I was trying to use a descriptive word. It had no heading in the book, I didn't know what to call it other than that.

BY MR. MILLER:

Q. Now, directing your attention specifically to page 1 of this exhibit 1, Mr. Sherman, do the entries set forth on page 1 accurately show entries on the distribution book of Midwest Order Buyers?
A. Yes, it does. The first column shows where the hogs originated.

Q. What does column 2 show? A. It shows the number of hogs coming from those points that went on the Home Packing Company invoice.

121 Q. What does column 3 show? A. Column 3 is the weights of the same hogs and column 4 is the cost, purchase cost of those same hogs.

Q. Now, with respect to page 2 of this exhibit, Mr. Sherman, do these entries accurately show the entries as they appeared in the distribution book of Midwest Order Buyers? A. It does.

Q. And what do pages 1 and 2 of this exhibit show with respect to the disposition of the hogs? A. Pages 1 and 2 show that the hogs shown here went to Home Packing Company at Terre Haute, Indiana, all on the same invoice.

Q. And is page 3 a copy of an invoice which you found in the books and records of Midwest Order Buyers? A. Yes, it is.

Q. And does that invoice cover the same hogs as are listed in the so-called mock-up or facsimile invoice as it appeared in the distribution book? A. It does.

Q. On this exhibit, Mr. Sherman, there is a notation "Mail check to H. L. Sparks & Company, National Stockyards, Illinois". Was that a notation appearing on this invoice which you copied? A. That's correct.

Q. Did you find similar notations on other invoices? A. Yes, sir. Sometimes typewritten on, sometimes put on with a rubber stamp.

122 Q. Now, Mr. Sherman, I'm not exactly sure that I asked these questions before and in view of the fact that the columns as they appear in the distribution book were not, did not have any headings I want to make sure that the record is clear with respect to each of the columns on Exhibits 3 and 4.

Directing your attention briefly to Complainant's Exhibit No. 3 again, is it correct that the first column of figures shows the number of head? A. That's correct.

Q. And the second column shows what? A. Weight.

Q. And the third column shows what? A. Money.

Q. And is the same thing true with respect to the three columns on page 3 of Exhibit 3? A. That is correct.

Q. On Complainant's Exhibit No. 4, Mr. Sherman, on page 1 of such exhibit does column 1 show the number of head of hogs? A. It does.

Q. And the second column of figures shows what? A. Weight.

Q. And the third column shows what?

123 Q. On page 2 of the same exhibit, Mr. Sherman, of Exhibit No. 4, the first column of figures shows what? A. The first column of figures after the designation SP, NAC, QU, shows number of head, the next column shows weight and the last column shows the money.

Q. Mr. Sherman, in making your tabulation which has been identified as Complainant's Exhibit No. 1 did you follow the same procedure in obtaining the data which appears in that tabulation with respect to each of those transactions as the procedure which you have just described with respect to these four individual transactions covered by Complainant's Nos. 3 through 6? A. That is correct.

MR. MILLER: Mr. Examiner, at this time I offer into evidence Complainant's Exhibit Nos. 1 through 6. In making this offer I would like to state that Complainant's Exhibits Nos. 1 and 3 are being offered for limited purposes only. Complainant's Exhibit No. 1 is being offered for the purpose of showing how the examination or the audit of the records of Midwest Order Buyers was made and for the purpose of serving as a necessary foundation exhibit for Complainant's Exhibit No. 2.

Complainant's Exhibit No. 3 is being offered for the purpose of showing the procedure which was followed by Mr. Sherman in tracing certain purchases of hogs to their ultimate destination and in showing,

124 and for the purpose of showing in a little more detail than is shown by other exhibits the exact manner in which certain entries were made in Midwest Order Buyers' distribution book. Subject to those limitations, therefore, complainant offers into evidence Exhibits Nos. 1 through 6.

* * * * *

CROSS-EXAMINATION

125 BY MR. MELNICOFF:

Q. Mr. Sherman, this Exhibit No. 1 that I have here, I understand that is a typewritten copy of what you have before you in a yellow form, is that right? A. That is correct.

Q. So that every figure that appears on Exhibit No. 1 as I have it here now would appear on your yellow No. 1-A for identification? A. That's correct.

Q. The two of them are identical in that respect? A. That's right.

Q. Now, earlier we attempted to fix some certainty at what point you were chronologically in Chapin when you gathered the material which appears on yellow Exhibit No. 1-A. Do you remember me raising some objection that you hadn't quite fixed the time? Do you recall me asking those questions? A. I was asked what time I was up there.

Q. That's right. And would you tell us again now when you were up there to obtain the information on these exhibits, that is reflected on these exhibits? A. I was up there during the month of February, I believe the last week in January and possibly in March of 1957.

* * * * *

126 Q. And while you were there with Mr. McCoy during all this time? A. That's correct.

Q. You both arrived the same time? A. Mr. McCoy had been up there with Mr. Smith the week prior to my going to Chapin.

127 Q. That would be about the second week of January 1957? A. Either the second or third week, I don't remember exactly.

Q. But he was there about a week before you were there? A. That's correct.

Q. Then you were both there together for the remainder of the period? A. That's correct.

* * * * *

129 Q. Now, these headings that appear here, where did you get these headings? A. I made them up.

130 Q. They didn't appear in the books themselves? A. No.

Q. And this date, 12/1, the figure date, d-a-t-e, rather than worded d-a-t-e-, that was your own? A. That's correct.

Q. And sold to? A. That was put there to designate the packer it was sold to.

Q. And you made that up, you ascertained that date and this sold to, that was your own conclusion from what you saw in the records? A. From the distribution book and the invoices.

Q. And that was all that you saw then? A. We had the buy sheets to go along with it.

Q. Now, where did you get this distribution book? A. At Midwest Order Buyers.

Q. From whom? A. I don't remember whether Mr. Ischer gave it to me or Mr. Gibson or Mr. Hazelrigg.

Q. Who is Mr. Hazelrigg, he is a new man, I never heard of him before? A. He was another employee there.

Q. What was his job as far as you knew? A. I think he was their bookkeeper.

Q. Hazelrigg was the bookkeeper? A. That's right.

131 Q. What was Gibson? A. He worked for Mr. Hazelrigg as a bookkeeper.

Q. Both in the same room? A. Yes, in fact we used Mr. Hazelrigg's desk while we were there.

Q. You said you had this big book. From whom did you obtain it? A. That I don't exactly remember. I believe, it was either Mr. Hazelrigg or Mr. Gibson.

Q. You didn't ask Mr. Ischer for it? A. Possibly could have.

Q. Well, could you be a little more precise now? There are three names and you have indicated you obtained from all three. Now, which one was it, if you can tell us? A. I say I don't remember which one gave it to me.

Q. Do you remember the day when you arrived there, approximately? A. The exact date, no.

Q. Well, do you remember anything that took place the day that you arrived? I want you to think very carefully about that. A. Nothing special, I was introduced to Mr. Ischer.

Q. By whom? A. Mr. McCoy.

132 Q. Oh, he had been there? A. Mr. McCoy had been there a week prior, as I told you a little while ago.

Q. And you were introduced to Mr. Ischer by who? A. Mr. McCoy.

Q. Who is Mr. Ischer? A. General Manager.

Q. Who stated he was general manager? A. He told me and later Mr. Ischer told me he was general manager.

Q. You showed Mr. Ischer your credentials, did you? A. I don't remember whether I did or not.

Q. How did you happen to be there? A. I was ordered there.

Q. By whom? A. My chief.

Q. Who was that? A. At that time -- I have got to think back -- Mr. Sinclair.

Q. From Washington? A. Washington.

Q. You were attached to which office? A. National Stockyards.

Q. That's in St. Louis here, across the river? A. That's right.

Q. And was Mr. Sinclair in charge of the office at that time?

133 A. Mr. Sinclair was chief of the branch in Washington.

Q. So you were ordered by him and not by your chief in St. Louis? A. That's right.

Q. What was the reason for that? A. It was through -- at that time it was through Mr. Bowman that I was ordered there from the chief out of our Washington office. Mr. Bowman is now the chief. At that time he was, I don't remember his title.

Q. Well, who is Mr. Bowman, what is his first name? A. Donald Bowman.

Q. And where was he at that time? A. He was stationed in Washington and he came to St. Louis.

Q. And Mr. Sinclair is stationed in Washington too? A. That's correct.

Q. Who was the chief in St. Louis at that time? A. The district supervisor, Mr. John A. Sands.

Q. Mr. Sands didn't order you up to make this invesgitation, did he? A. No.

Q. Mr. Sinclair ordered it? A. Through Mr. Bowman.

Q. Through Mr. Bowman, that is Mr. Sinclair gave the orders to

134 Mr. Bowman and Mr. Bowman gave them to you? A. That's right.

Q. Did he explain why you were to go up there or what you were to do? A. Make an audit, trade practice audit.

Q. Did they tell you Mr. McCoy was there? A. Yes, Mr. McCoy was also stationed in our office.

Q. If Mr. McCoy was up there you were up there to help him? A. That's correct, Mr. McCoy and I were working together.

Q. And who was in charge of the project? A. I was.

Q. But he was up there first? A. That's correct, he had been up there helping Mr. Smith.

Q. Now, who is Mr. Smith? A. He was the auditor from Chicago at that time.

Q. What was his first name? A. Melton.

Q. Melton Smith? A. That's correct.

Q. Is he with the department now? A. No.

Q. He has since left? A. That's correct.

* * * * *

141 BY MR. MELNICOFF:

Q. Mr. Sherman, this Exhibit No. 1 you say was the basis in turn for Exhibit No. 2, is that right? A. That is correct.

Q. Do you have your copy of Exhibit No. 2 before you? A. Yes, sir.

Q. Now, would you point out to me the lines and the pages on Exhibit No. 1 where the items that you have reflected on Exhibit No. 2 appear? A. The first one appears under date of December 1, 1955.

Q. That's on sheet No. 1, is that right? A. Yes, it is the Swift & Company invoice originating at five country points and 167 head from Springfield.

Q. Well, let me see if I can shorten this because this promises to be what might be a long -- could we just say this. Is this right, I
142 don't know, that if we looked at the date on your Exhibit No. 2 and compared it with the date on Exhibit No. 1 that that would be sufficient identification? A. You could find every one of them under those dates, yes. Of course, each date will have several invoices shown on Exhibit No. 1.

Q. All right, but now the point -- let's just illustrate what I have in mind. Take this on Exhibit No. 1, the first item under date of 12/1/55, December 1, '55, there are seven items, is that right? A. That's correct.

Q. And of these seven items you have picked only one, is that right? A. That's correct.

Q. That would be the one dated December 1, '55, sold to Swift & Company, is that right? A. That's right.

Q. And how would I further identify that of those seven this would be the only one that you have reflected on Exhibit 2? A. By the number of hogs, who it was sold to, where purchased.

Q. The seventh item on Exhibit No. 1 is Swift in his yards, do you see that? A. Yes, that is National Stockyards.

143 Q. Is that the item as you refer to as your first item on Exhibit No. 2? A. That is correct.

Q. And then on December 10th we have several items on Exhibit No. 1 as you see, is that true? A. Yes.

Q. There is six or seven, I haven't counted them but the only one you are interested in is the one to Swift, is that right, on December 10th? A. Yes.

Q. And that would be on Exhibit No. 1 the third item down, is that right? A. Under the date of the 10th.

Q. So if we follow through the exhibit we would find the same pattern is true, is that right? A. That is correct.

Q. So to the extent, then, that anything that is not reflected on Exhibit No. 2 you are not offering Exhibit No. 1 for any purpose other than for those items which are on Exhibit No. 2, is that right? A. I'm a witness, I don't offer exhibits.

Q. Please don't argue with me, I'm not attempting anything here except to ascertain a fact and you are a witness and I think you are here to answer facts. Is there anything on Exhibit No. 2 which is not reflected on Exhibit No. 1? A. Is there anything on this that is not on there?

144 Q. Yes. A. Inasmuch as these 45 items are concerned the same information is on both.

Q. On both exhibits? A. Yes.

Q. So Exhibit No. 2 is merely an extract from Exhibit No. 1 of certain items? A. That is correct.

MR. MELNICOFF: Now, Mr. Examiner, in view of the next to the last answer I got from the witness, I don't intend to argue with the witness, may I ask now of counsel for the government whether or not my inquiry is correct, that is, is the government now offering Exhibit No.

2, or to put it this way, is the Exhibit No. 1 limited only to reflect those items which are shown on Exhibit No. 2?

MR. MILLER: Well, I will remake my offer.

MR. MELNICOFF: Perhaps that would be helpful this morning.

MR. MILLER: I believe I stated yesterday that Complainant's Exhibit No. 1 was being offered for the purpose of showing the manner in which complainant's audit of the Midwest Order Buyers records was made and for the purpose of laying the necessary foundation for Complainant's Exhibit No. 2. In other words, it is not intended by Exhibit No. 1 to include any transaction or to place in controversy, let me say, any
145 transaction not specifically alleged in the Order of Inquiry.

MR. MELNICOFF: Well, Mr. Miller, thank you, but let me ask, if I may, Mr. Examiner, this further question. Mr. Miller stated it was offered, as I understood it, for two purposes, the first of which, and the only one with which I am concerned at the moment, is that it was offered to show the manner in which the complainant conducted its audit, is that right?

MR. MILLER: Correct.

MR. MELNICOFF: Therefore, am I to understand from that that this, by this I mean Exhibit No. 1, will not be used to show either course of conduct or it will not be referred to for any purpose other than merely to show that the government conducted an audit on that point? I realize, of course, that in addition to that it is being offered as background material, I don't mean to exclude that at all.

MR. MILLER: It is being offered to show the manner in which the audit was conducted. We are not placing in controversy by this exhibit any transaction not in the Order of Inquiry.

MR. MELNICOFF: I am only cross-examining now for the purpose of objections to this exhibit. The exhibit that is No. 1 could be used to show a course of conduct by the respondent to establish, for example, wilfullness. Now, I'd like to know specifically whether that exhibit is to be used for that purpose. If it is, why, then, I will govern myself and take one point of view. If it is not it may very well change my whole attitude
146 to this Exhibit No. 1.

MR. MILLER: We are not offering Exhibit No. 1 for the purpose of showing a course of conduct, except as Exhibit No. 1 relates, of course, to Exhibit No. 2 and the transactions set forth on Exhibit No. 2.

MR. MELNICOFF: I understand that. May I put it this way then. Insofar as the introduction of statistical material is concerned, we could very well either dispense with Exhibit No. 1 except insofar that it shows that there was an inquiry, an audit made by the government, or we could in effect draw a line through every item except the item -- except those items which are eventually on Exhibit No. 2, is that understandable?

MR. MILLER: Who are you asking?

MR. MELNICOFF: I think I am required to address the Examiner and he in turn --

PRESIDING OFFICER BAIN (interrupting): Counsel may answer.

MR. MILLER: I'm not sure I got the question. Would you read it, please?

(Question read.)

MR. MILLER: There are so many qualifications I'm not exactly
147 sure what that statement means. Let me put it this way. I think Exhibit No. 1 is a necessary exhibit for the reasons that I have stated before, that I think it is important as background material, that the record show the completeness and thoroughness of the audit made by complainant and I think that Exhibit No. 1 should be in the record to serve as a foundation exhibit for Exhibit No. 2. Insofar as -- strike that insofar. Complainant does not intend to use Exhibit No. 1 to prove any false weighin, false or incorrect invoicing, with respect to any transaction not alleged in the Order of Inquiry.

MR. MELNICOFF: And do you also say you do not intend to use it to show a course of conduct which might be construed to either show or tend to show wilfullness?

MR. MILLER: Except insofar as Exhibit No. 1 relates to the transactions alleged in the Order of Inquiry.

MR. MELNICOFF: So we are restricted to the items on No. 1 to whatever appears in the Order of Inquiry?

MR. MILLER: In short it is not the intention by Exhibit No. 1

to expand the Order of Inquiry.

* * * * *

148 MR. MELNICOFF: As to Exhibit No. 1 the yellow record will be the official copy, too?

MR. MILLER: Yes, sir, the copies that Mr. Sherman has been testifying from are the documents which have been offered into evidence.

MR. MELNICOFF: Very well, Mr. Examiner, in view of that explanation I withdraw my request.

PRESIDING OFFICER BAIN: I didn't understand that yesterday when I marked the yellow Exhibit 1 as Exhibit 1-A so we may disregard that mark as Exhibit 1-A.

MR. MELNICOFF: Frankly, Mr. Examiner, I didn't understand yesterday either. We are understood, then, the yellow copies are the
149 official record and whatever duplications are made are merely copies for the use of the Examiner and counsel.

MR. MILLER: That's right. The rules of practice require that. May I state for the record, Mr. Examiner, and Mr. Melnicoff, that Complainant's Exhibit No. 1 or the document from which Mr. Sherman has been testifying has been variously referred to as Complainant's Exhibit No. 1 and Complainant's Exhibit No. 1-A. May the record show that both those designations refer to the same document.

MR. MELNICOFF: Surely.

PRESIDING OFFICER BAIN: Yes, sir.

BY MR. MELNICOFF:

Q. With that understanding, Mr. Sherman, will you turn to Exhibit No. 3, please. Exhibit No. 3 is in turn taken from Exhibit No. 2, is that right? A. Exhibit No. 3 was copied from the distribution book at Chapin, Midwest Order Buyers' office, the items such as each individual invoice and the number of head on the invoice or the items that appear on the Exhibit No. 1 also appear on this Complainant's Exhibit No. 3

Q. Well, wait a minute. Everything that appears on Exhibit No. 2 you said was taken from Exhibit No. 1, is that right? A. That is correct.

Q. Everything in turn, then, that appears on Exhibit No. 3 is also

150 found on Exhibit No. 2, is that right? A. No, everything that's on Exhibit No. 3 is not on Exhibit No. 1.

Q. But is everything on Exhibit No. 3 found on either Exhibits 1 or 2? Is everything which appears on Exhibit No. 3 for identification on either Exhibit No. 1 or Exhibit No. 2? A. The totals on Complainant's Exhibit No. 3 as far as the date, sold to, or under the headings that is on the Complainant's Exhibit No. 1 are also on Complainant's Exhibit No. 3.

Q. What is there on Exhibit No. 3 which is not on Exhibit No. 2? A. Page 1, for example, of Complainant's Exhibit No. 3 does not appear any place on Complainant's Exhibit No. 1 in that detail.

Q. Does it appear anywhere in Exhibit No. 2? A. No, not in that detail.

Q. Are the figures there -- strike that, please.

Let's take this first page of Exhibit No. 3. We have a date 4/17/56, do you see that? A. That's correct.

Q. Now, I see a 4/17/56 on Exhibit No. 2, the date, is that the same date? A. That's the same date.

Q. Is that the same transaction? A. I don't know, I will have to

151 look. No, it is not.

Q. Can we look back on Exhibit No. 1 under 4/17/56 and will we find that there? A. You will find the transaction.

Q. Now, right below the 4/17/56 on Exhibit No. 3 there is a figure 6 followed by the word "Golden", do you see that? A. It is what?

Q. The figure 6 and the word "Golden". A. On date of 4/17?

Q. Yes, '56, on Exhibit 3, page 1. A. It is on Exhibit, page 1, it is not on Exhibit 1.

Q. Well, that's what I am trying to get. Now, there is a date 4/17/56 on Exhibit 1, do you see that date? A. Yes.

Q. Does that date 4/17/56 on Exhibit No. 1 relate to the date 4/17/56 on Exhibit No. 3, page 1? A. That is correct.

Q. Now, right below on Exhibit No. 3, page 1, we have the figure 6 and the word "Golden", do you see that? A. Yes.

Q. Now, does that appear anywhere on Exhibit No. 1? A. No.

Q. Nowhere at all? A. No.

Q. And the five which appears on page 1 of Exhibit No. 3, does that appear anywhere on Exhibit No. 1? A. No.

152 Q. And the figures 172 on page 1 of Exhibit 3, does that appear on Exhibit No. 1? A. No.

Q. And the figure 21060 on page 1 of Exhibit 3, does that appear on Exhibit No. 1? A. No.

Q. We won't find it anywhere on Exhibit No. 1? A. That's correct.

Q. Will we find any of those figures on Exhibit No. 2? A. No.

Q. So that Exhibit No. 3, then, stands by itself? A. That is correct, with the exception of page 4 of Exhibit No. 3 you will find on Exhibit No. 1 under date of 4/17 a sale to Swift stating from four points and from Peoria, 83, and Bushnell, 12. Page 4 of Exhibit 3 shows the total number of head, 163 head, total weight on the invoice 56,280.

Q. I understand that. I see that you are merely verifying it and I agree that the information does appear there. But insofar as the first three pages of Exhibit No. 3 are concerned, they do not appear, none of the information appearing on the first three pages of Exhibit No. 3 appears on either Exhibit No. 1 or Exhibit No. 2? A. You say none of the information. Yes, part of the information appears there.

153 Q. Well, which of the information, you told me it didn't. A. I was just trying to tell you.

Q. The first three pages, now. A. On page 3, now, for instance, under buy weights on Exhibit No. 1 the 55,760 pounds appears. That also appears on page 3 of the Exhibit No. 3.

Q. That also appears on Exhibit No. 1? A. On Exhibit No. 2.

Q. Let's go back to page 2, then, of Exhibit No. 3. Does anything there appear on Exhibit No. 1? A. Not in the form it shows on page 2.

Q. In what form does it appear? A. With the exception of the totals in weight and number.

Q. Give an illustration there so I can follow it more closely.

A. Well, your total of your head, for instance, from Golden plus the total of the head from Mount Sterling --

Q. (Interrupting) Are you looking at page 2 of Exhibit 3? A. I'm looking at page 1 and page 2, all of those points that are bracketed to Swift will appear in total under number of head and under the buy weight.

154 Q. But this figure on page -- well, show me one figure on page 1 that appears on Exhibit No. 1. A. Of the figures on page 1?

Q. Yes, of Exhibit 3. A. The figures as are on page 1 do not appear in that form.

Q. Well, in what form do they appear? A. As totals.

Q. Well, show me one total on Exhibit No. 1. A. It has to be totaled with page 2, page 1 and page 2 of Complainant's Exhibit No. 3 is totaled to show the number of head and the buy weights on Exhibit No. 1.

Q. And when you use the term buy weights those -- A. (Interrupting) Purchase weights.

Q. That is your nomenclature, is that right? A. That is the way they appeared on the distribution book and on the buy sheets from the various points.

Q. Well, we haven't done this before. On Exhibit No. 1 you have a number of headings. Would you indicate which of those headings appeared on the distribution book that you looked at? A. As I remember it the distribution book had no headings.

Q. So your last statement that you made, referring to what the books showed as certain weights is not entirely accurate, it is what you
155 understood them to be? A. I made a statement -- what statement are you referring to?

MR. MELNICOFF: Would you read the next to the last statement the witness made?

(The question and answer was read as follows:

"Q. That is your nomenclature, is that right?

A. That is the way they appeared on the distribution book and on the buy sheets from the various points".)

BY MR. MELNICOFF:

Q. Now, having heard the previous question and answer read it is your testimony now that the headings which appear on Exhibit No. 1 are the headings which appeared on the distribution book as you copied them from that book? A. No, I testified yesterday that these headings were my own.

Q. All your own headings? A. That's correct.

Q. And they reflect your interpretation of the information you found in the book? A. That's correct.

Q. I see. And when you refer to those headings throughout your testimony that is the, you are referring to the headings as you understood them, as you wrote them as they applied to the material appearing in the book? A. After I received certain information while I was there, yes, sir.

156 Q. But it is completely and essentially your own interpretation of what appeared on the books and you saw what information you got? A. It is what I found there, yes.

Q. But the headings were not on the books, is that right? A. That's correct.

Q. All right. And the same thing is true wherever you used a heading in all of the exhibits? A. In Exhibit No. 1 the same thing is true all the way through.

Q. And also Exhibit No. 2? A. Yes.

Q. Now, let's take a look if we will at Exhibit No. 4. You say that's a copy of an invoice? A. Complainant's Exhibit No. 4 is composed of three pages.

Q. Well, the first page? A. Page 3 is a copy of an invoice.

Q. What I am referring to, Mr. Witness, is this. You tell me how to describe that. I think that's page 4 of Exhibit 3, is that right? A. That's right. No, that's page 3 of Exhibit 4. Maybe you have the

157 wrong one. You are going back to Exhibit 3. You asked me to look at Exhibit 4.

Q. I'm looking at page 4 of Exhibit 3. A. O.K. I got you now.

Q. And that is an invoice, is that right? A. It is a copy of an invoice, yes.

Q. There you show some amounts, some dollars and cents, is that right? A. That's correct.

Q. What is the significance of those dollar amounts there? A. That is the cost of the hogs to the buyer.

Q. Does that have anything to do with the allegations in this complaint? A. I don't know.

* * * * *

159 BY MR. MELNICOFF: Now, let's turn to Exhibit No. 4, page 1. There again I will ask you where does this material appear on either Exhibit No. 1 or Exhibit No. 2? A. The material on page 1 of Complainant's Exhibit No. 4 appears on Complainant's Exhibit No. 1 only in total.

Q. And that would be -- A. (Interrupting) Such totals being 488 head, 144,245 pounds under the buy weight --

160 Q. (Interrupting) And where is that on Exhibit No. 1, just give me the page number or the sheet number. A. On Exhibit No. 1 it would be under date of December 1, 1955.

Q. Is this a sale to Swift, is that what you are trying to set up? A. That is correct.

Q. And page 2, that also appears on Exhibit No. 1 in the same manner, is that right? A. Page 2 is the totals that I read before which would be the totals on page 1.

Q. Now, page 3 is again a copy of an invoice, is that correct? A. That's correct, your number of head and your invoice rates as they appear on Complainant's Exhibit No. 1.

Q. That's not the same invoice that you have on page 4 of Exhibit No. 3, is that right? A. No, that's a different invoice than the one on page 4 of Exhibit No. 3.

* * * * *

161 BY MR. MELNICOFF:

Q. Now, Complainant's Exhibit No. 5, there again that information appears on Exhibit No. 1, is that right? A. The totals.

Q. Yes. And, of course, they appear on Exhibit No. 2 as well in totals, is that right?

* * * * *

A. Yes, that appears on Exhibit No. 2.

BY MR. MELNICOFF:

Q. Now, page 3 is a copy of an invoice to Hunter, is that right, dated March 7, '56? A. That is correct.

* * * * *

162 Q. And the pattern we have been describing would be true with regard to Exhibit 6, is that right, pages 1 and 2? A. That is correct.

Q. And page 3 of Exhibit 6 is again a copy of an invoice, is that right? A. That is correct, a copy of an invoice to Home Packing Company.

* * * * *

163 Q. Mr. Sherman, let me refer you once again to your Exhibit No. 1. Let's take, for example, the third line on the first page under your third column heading, "Shipped From". Do you see that? A. Yes, sir.

Q. Do you see the word "Springfield"? A. Right.

Q. You may have explained it before but I'd like to ask you again. What does that mean? A. It means that on December 1, 1955, there was sold to Tron's Packing Company 250 hogs that originated from Springfield.

Q. Who shipped them from Springfield? A. They were invoiced on a Midwest Order Buyer's invoice.

Q. I said who shipped them from Springfield? A. Who was the actual person that shipped them?

Q. The shipper was Midwest Order Buyers, is that right? A. That's the way they were billed.

Q. Let's take another one here, Bushnell on December 6, 1955, under your third column which says five points and Bushnell. Now, 164 that was shipped from Bushnell, was it? A. They originated at Bushnell, they were invoiced by Midwest Order Buyers to ten packers.

Q. Are you familiar with the manner in which H. L. Sparks & Company is registered, are you familiar with their various registrations? A. Yes, I am.

Q. Do you know how many there are? A. I believe he is registered at National Stockyards, he was registered at Springfield, he was registered at Peoria, I say was because I mean at the time of this --

Q. (Interrupting) Go ahead, have you finished? A. He was registered at Bushnell as a dealer and I believe, I don't know --

Q. (Interrupting) Are you aware of the fact that there are several registrations in various capacities and that each registration is a separate entity, is that right? A. No, I don't recognize that.

Q. You don't recognize or you just don't know? A. I don't recognize it. It is the same person. Two of those registrations are under the same number or were at that time which would indicate to me --

Q. (Interrupting) But you don't have those records here with you now? A. The registration records, no, those are kept in Washington.

165 Q. And those are part of the official records of the department? A. That is right.

Q. And, of course, whatever those records would show would be the official designation and not either your recognition or your recollection, is that right? A. They show the same partners.

Q. You don't know what they show, do you? A. Yes.

Q. Have you seen them? A. Yes.

Q. Do you have them with you now? A. Yes.

Q. So whatever you have seen, the official records of the department would be controlling, wouldn't it? A. Controlling as to what?

Q. As to everything. A. It controls, it shows that they are registered.

Q. And those are part of the official records of the department? A. That's correct.

Q. And you don't have them with you now? A. No, I don't.

MR. MELNICOFF: Mr. Examiner, at this time I respectfully request that none of these exhibits be admitted into evidence for the reasons heretofore indicated and for the reason that they have not been
166 authenticated, we do not now know whether they are true and accurate reflections of what they purport to reflect. We do not, we know that they are misleading in this respect since the witness has taken what he says is information from a certain book and then has interpreted by applying to it certain headings which in themselves are misleading. We don't know until we see the original books themselves just to what extent they reflect the information. To assume the burden to refute these if they are received, it would deny to us a full and fair hearing under the Packers and Stockyards Act and the due process clause of the Fifth Amendment. This is a very serious matter, Mr. Examiner, when a government has seen fit to charge a violation, then to search his records and then not only his records but the records of others and then present tabulations, compilations of them by a witness who appears for them and who is necessarily taken with the fact that he appears as a witness for one of the parties in an adversary proceeding, to require us to accept as fact those matters which he has seen fit to copy down. Now, he hasn't told us, I might point out, and I have given him every opportunity to do so, that he has copied down everything. We don't know that there may be something else in there. Now, he has indicated that in various columns he has interpreted information that he has copied. Not only that he has
167 made certain notes and notations and he submitted his own explanation of what those are. Standing alone, standing as they are there has not been a sufficient foundation laid either for the admission of these

exhibits into evidence or to shift the burden of proof or the burden of going forward with the proof. Accordingly, Mr. Examiner, at this time I respectfully request that these exhibits be denied admission in evidence.

* * * * *

PRESIDING OFFICER BAIN: I don't believe any of the objections are good. The matter apparently came from the records. Exhibit 1 is admitted for the purposes stated by counsel in their discussion this morning and yesterday.

(Thereupon the document heretofore marked as Complainant's Exhibit No. 1 was received in evidence.)

PRESIDING OFFICER BAIN: Exhibit No. 2 is admitted.

(Thereupon the document heretofore marked as Complainant's Exhibit No. 2 was received in evidence.)

PRESIDING OFFICER BAIN: Exhibit No. 3 is admitted for the purposes stated.

(Thereupon the document heretofore marked as Complainant's Exhibit No. 3 was received in evidence.)

PRESIDING OFFICER BAIN: Exhibits 4, 5 and 6 are admitted.

* * * * *

169 DIRECT EXAMINATION (Continuing)

BY MR. MILLER:

* * * * *

170 Q. With respect to Exhibits 3, 4, 5 and 6, is it possible by looking at those exhibits to find or determine all of the figures appearing on Complainant's Exhibit No. 1 with respect to those particular transactions?

A. Yes, it is.

Q. Now, with respect to these exhibits, Nos. 3, 4, 5 and 6, you testified in response to a question by counsel for respondents that the parts of these exhibits which are copies of entries from the Midwest Order Buyers' distribution book do not have any column headings. Was it possible to determine from the distribution book or from other records of Midwest Order Buyers what each column represented?

MR. MELNICOFF: I object to that, Mr. Examiner. That's calling for interpretation and for his state of mind. That is precisely the sort of evidence that we are confronted with when the books and records aren't here. He said was it possible. The only way we can cross-question on that is to have the books to see whether it is possible. He is asking for his conclusion, for his state of mind, to his mind, not the objective evidentiary mind.

PRESIDING OFFICER BAIN: I think that's a proper question.

171 A. Yes, it was possible to determine what they were.

BY MR. MILLER:

Q. Would you explain how it was possible? A. We had the --

MR. MELNICOFF: (interrupting) Pardon me, I object to that question again for the reason indicated. Now, you are asking for him to describe his state of mind.

MR. MILLER: I am not asking him to describe his state of mind, I am asking him how he made this determination.

MR. MELNICOFF: From books and records which are not here.

PRESIDING OFFICER BAIN: Well, there are some copies here and I think I could answer some of the questions from the copies. I'm sure if I could even think I could answer some an auditor may be able to answer them all. He may answer.

A. We had access to the buy sheets from the various points. We checked these figures from the buy sheets from the head, weight and amounts on them and from long association with records in stockyards, not only at National Stockyards or Chapin but in many other stockyards around the country I can recognize head, weight and amounts in books and records of various registrants in different books covering the transaction of livestock when I see it.

* * * * *

174 BY MR. MILLER:

Q. When you refer to buy sheets, Mr. Sherman, what are you referring to? A. Each one of the country points that operate through Midwest Order Buyers have a daily buy sheet which they send to the home office at Chapin and this daily buy sheet bears among other things the same information that appears in the distribution book on the left-hand side.

MR. MELNICOFF: I object to his characterization of the buy sheets without a buy sheet even being here submitted as a copy of one. I move that answer go out.

PRESIDING OFFICER BAIN: Motion denied.

BY MR. MILLER:

Q. Are these buy sheets which you examined a part of the books and records of Midwest Order Buyers? A. They were.

175 MR. MELNICOFF: I object to that question, too, Mr. Examiner. May I have a continuing objection to all this? I object to that question.

PRESIDING OFFICER BAIN: You may have a continuing objection. It is overruled.

BY MR. MILLER:

Q. Have you had any doubt, Mr. Sherman, about any figure appearing in the distribution book? Did you make inquiries of any employee of Midwest Order Buyers?

MR. MELNICOFF: That's again asking for his state of mind, I object. Did he have any doubt. That's purely a question for the state of his mind.

PRESIDING OFFICER BAIN: The objection is overruled.

A. As I testified yesterday, there were certain figures that appeared in the distribution book that we didn't know what they were, particularly those under the heading on Complainant's Exhibit No. 1 of reweigh weights, as one example, of where we had to inquire. Another example comes under the headings on Complainant's Exhibit No. 1 of off-truck weights. There also we had to inquire what those figures meant. And, of course, many times during any audit inquiries have to be made as to what things mean.

MR. MELNICOFF: I object to that question and move the answer go out. He has testified that he spoke to several people. He didn't indicate who they were, when he talked to them, didn't say what he asked them, 176 didn't indicate what he asked them, didn't say what they answered. This testimony is pure hearsay.

PRESIDING OFFICER BAIN: This is one of the exceptions to the hearsay rule in this type of investigation. The objection is overruled and the motion to strike is denied.

BY MR. MILLER:

Q. Mr. Sherman, with respect to Complainant's Exhibit No. 4, I intended to clarify one thing yesterday and completely forgot about it. One of the questions which counsel for respondent asked you this morning suggested the matter to me. On the first page of Complainant's Exhibit No. 4, Mr. Sherman, it shows certain hogs purchased at Springfield which were bracketed to Swift. Does the total number of those hogs bracketed to Swift appear on the so-called mock-up as set forth on page 2 of this exhibit? A. Does the total number of hogs bracketed to Swift appear on the mock-up?

Q. Yes. A. They do, I believe, with one exception.

Q I'm talking now about the hogs purchased at Springfield. A. At Springfield, yes, the total appears.

Q. Now, with respect to the other entries showing the places where the hogs were purchased, were the total number of hogs purchased 177 at those various points as shown by page 1 of this exhibit transferred to the mock-up as it is shown on page 2? A. With one exception, and that is the number transferred from page 1 to page 2 from Macon which is on page 1 under the heading "MAC". It appears on page 2 under "MAC", the second line, 132 head. You will note on page 1 that totals 138, I believe.

Q. Do you want a pencil, Mr. Sherman? A. No, 138 head. The weight does not total the same that appears on page 2 as appears on page 1, however, the money item, three one two six three nine, was left in total when transferred to page 2, when transferred to the mock-up.

Q. They were transferred at the same price? A. They were the same amount of money. That's 140 instead of 138.

MR. MELNICOFF: Are you making a change in the exhibit, Mr. Miller?

MR. MILLER: No, sir, I'm not making any change in anything. I'm merely asking the witness to explain a couple of entries that appear on this exhibit.

THE WITNESS: I didn't total those figures correctly in my head.

BY MR. MILLER:

Q. Mr. Sherman, going to Complainant's Exhibit No. 2, a portion,
178 in certain of those transactions a portion of the hogs were purchased at either Springfield stockyards or Union Stockyards in Peoria. In each of those transactions in which hogs were purchased at Springfield or Peoria did you check records at Springfield and Peoria to determine if those hogs had been reweighed? A. I did.

Q. And what did you find? A. I found out they had not been reweighed at those points.

Q. There were no reweigh records for those hogs at those points, is that correct? A. That is correct.

Q. With respect to all of the transactions set forth in Complainant's Exhibit No. 2 did you make an effort to determine if the records of Midwest Order Buyers contained any data to support the invoice weights?

MR. MELNICOFF: I object to any evidence concerning what the records of Midwest Order Buyers contained.

MR. MILLER: I asked him if he made an effort to determine.

PRESIDING OFFICER BAIN: He may answer that question.

A. I made every effort I could to determine whether there was any reweight weights.

BY MR. MILLER:

179 Q. What did you do? A. I asked --

MR. MELNICOFF (interrupting): I object again.

A. (Continuing) -- several of the --

MR. MELNICOFF (interrupting): Pardon me.

PRESIDING OFFICER BAIN: Go ahead.

A. I asked several of the people working in the office at Midwest repeatedly.

BY MR. MILLER:

Q. Who specifically? A. Mr. Ischer, Mr. Hazelrigg, I believe Mr. Bryant a time or two. I always received the same answer.

MR. MELNICOFF: Objection unless you fix the time.

PRESIDING OFFICER BAIN: That can be fixed from yesterday's testimony about when he was there. The objection is overruled.

BY MR. MILLER:

Q. Will you continue, Mr. Sherman? A. I forgot what I was saying.
I asked repeatedly when I was there from several people, people working
in the office at Midwest, Mr. Ischer, Mr. Hazelrigg, and I believe Mr.
Bryant and always received the same answer, they did not have scale
tickets showing reweighs, they had no record showing the reweighs.
The only record we were able to find which they said was a reweigh
record are those reweigh weights shown on Complainant's Exhibit No.
180 1 under the head of "Reweigh Weights if Shown".

* * * * *

BY MR. MILLER:

Q. Mr. Sherman, I hand you copies of exhibits which have been
marked for identification as Complainant's Exhibits Nos. 7, 8, 19 and
20. I direct your attention first of all to Complainant's Exhibit No. 7
and ask that you examine it and state what it is, if you know. A. Complainant's Exhibit No. 7 is an invoice which I obtained from Heil Packing
Company, St. Louis, Missouri, showing the sale of hogs from Midwest
Order Buyers to Heil Packing Company of 744 head weighing 169,700
181 pounds for the total amount of money, $27,152.

Q. Will you describe exactly what you did in obtaining this invoice from Heil Packing Company? A. I requested from Heil Packing Company this specific invoice, among others, and they at their office produced it along with the scale tickets attached thereto and handed them to me.

Q. I direct your attention to Complainant's Exhibit No. 8 with subparts A through F. Will you identify this exhibit, Mr. Sherman? A. Complainant's Exhibit No. 8 is the scale ticket which was attached to Complainant's Exhibit No. 7 as I received it at Heil Packing Company.

Q. And were those scale tickets covered by Complainant's Exhibit No. 8 physically attached to the invoice covered by Complainant's Exhibit No. 7? A. They were.

Q. What did you do with this -- strike that, please.

Directing your attention, Mr. Sherman, to Complainant's Exhibits Nos. 19 and 20, will you identify them, please? A. Exhibit No. 19 involves an invoice from Midwest Order Buyers to Heil Packing Company showing the sale of 353 hogs on October 20, 1956, weighing 81,400 pounds for $13,540.

182 Q. And Exhibit No. 20? A. Exhibit No. 20 is the scale tickets that were attached to the invoice as I received it from Heil Packing Company.

Q. Will you describe your method of obtaining these exhibits, Mr. Sherman, or the documents covered by these exhibits? A. The same manner I obtained the Complainant's Exhibits Nos. 7 and 8.

Q. What, if anything, did you do with the documents covered by these four exhibits after you obtained them from the records of Heil Packing Company? A. I returned to our office at National Stockyards and locked them in our files, kept them until a later date and then mailed them to our office in Washington.

Q. You mailed them where? A. Washington, our office in Washington.

Q. To the Packers and Stockyards Branch in Washington, D. C.? A. That is correct.

Q. Were all the documents covered by these four exhibits, Mr. Sherman, in your care and custody from the time you obtained them from Heil Packing Company until the time you mailed them to the Packers and Stockyards Branch in Washington, D. C.? A. Yes.

Q. Did you at any time, Mr. Sherman, examine the books and
records of Midwest Order Buyers to determine whether or not copies
183 of these same two invoices were kept in the records of Midwest
Order Buyers?

MR. MELNICOFF: Objection, Mr. Examiner, to anything relating to Midwest Order Buyers.

PRESIDING OFFICER BAIN: Objection overruled.

A. Yes, these same invoices were in the records of Midwest Order Buyers, copies of them.

BY MR. MILLER:

Q. At the time you mailed these documents to the Packers and Stockyards Branch in Washington, D. C. did you mail any other documents? A. Yes, I did. I mailed several other invoices and scale tickets to Washington at the same time.

Q. And what invoices and scale tickets were those? A. From the Hunter Packing Company.

Q. Were the invoices or scale tickets from the Hunter Packing Company in your care and custody at all times that those documents were in the files of the district supervisor here at St. Louis National Stockyards? A. Yes, they were.

MR. MILLER: I offer into evidence Complainant's Exhibits Nos. 7, 8, A through F, Complainant's Exhibit No. 19 and Complainant's Exhibit No. 20, A through C.

PRESIDING OFFICER BAIN: Are there any questions or objection?

184 MR. MELNICOFF: Yes, Mr. Examiner, I object to them on the grounds, first, these on their face appear to be and are transactions wherein Midwest Order Buyers had some dealings with a packing company. There is no relation, there is no mention of the respondents in this transaction whatsoever. They have no relation to respondents or to this case at all.

PRESIDING OFFICER BAIN: I don't believe the objection is good. In the first place H. L. Sparks & Company, National Stockyards, Illinois, appears on one of them.

MR. MELNICOFF: The fact that their name is on there doesn't mean that ties them into it. It hasn't been explained.

PRESIDING OFFICER BAIN: If the check in payment for those hogs was supposed to be mailed to Sparks & Company and at least some of the testimony at least that the partners in Sparks & Company are also the partners in Midwest I think the connection is sufficient. If these are not connected up in some way with some transaction charged in the complaint, why, of course, they won't be used against the respondent.

MR. MELNICOFF: Mr. Examiner, that's just it. They have not been determined. There are several Sparks entities.

PRESIDING OFFICER BAIN: There is just one Harry L. Sparks, I take it.

MR. MELNICOFF: Beg pardon?

185 PRESIDING OFFICER BAIN: There is only one Harry Lee Sparks as far as this case is concerned, there may be others, I don't know, but it is the two respondents that are in this case.

MR. MELNICOFF: There are at least four Sparks entities and four Harry Lee Sparks concerned.

PRESIDING OFFICER BAIN: So far as I am concerned there is just one Harry Lee Sparks and there is just one Rex Wanda Sparks. If there are others I don't suppose they are respondents in this proceeding.

MR. MELNICOFF: Yes, they are, Mr. Examiner, they are overlooked like everyone despite the fact that I have attempted --

PRESIDING OFFICER BAIN (interrupting): Which Harry Lee Sparks was it that walked into this hearing yesterday physically?

MR. MELNICOFF: There was a person named Harry Lee Sparks but as the records of this Department of Agriculture show, there are at least four different Harry Lee Sparks, registrants concerned here, who are named as respondents and set forth in the complaint and the position that is now taken that those registrations amounted to nothing, that's beside the point. There has been a complete failure to link and connect this up in any way with any of the Sparks respondents. I therefore ask that these be denied admission into evidence.

186 PRESIDING OFFICER BAIN: I disagree directly with that statement. If I am wrong I will change my mind later but I don't see how there is any possibility that I could be wrong on any such simple question as that.

Exhibits 7, 8, 19 and 20 are admitted.

* * * * *

187 BY MR. MILLER:

Q. I hand you Complainant's Exhibits 21 and 22. Will you state what they are, if you know? A. Complainant's Exhibit 21 and 22 are scale tickets which I personally stamped on the scale at Midwest Order Buyers at Chapin on February 21, 1957.

Q. Who owns the scale upon which you stamped those weights? A. Midwest Order Buyers. Mr. Sparks.

MR. MELNICOFF: Can I have the date when this was stamped, I missed that.

THE WITNESS: February 21, 1957.

BY MR. MILLER:

Q. For which exhibit, Mr. Sherman? A. Both of them.

Q. Will you describe, Mr. Sherman, exactly what you did in stamping the weight impressions on these exhibits? A. The poise on
188 the scale --

Q. (Interrupting) What is the poise, please? A. The poise is the balancing weight on the beam which is moved to the various weight figures to obtain a weight that you desire to print or if you have something on the scale to balance the weight that is on the scale.

Q. For descriptive purposes and for descriptive purposes only, would you describe the poise on this weigh beam on the scale at Chapin as a balance weight which moves back and forth along the weigh beam in the same manner as the small balance weight moves back and forth on a doctor's scale? A. That is correct.

Q. Now, will you continue, please, with describing exactly what you did in printing these tickets? A. This poise also has a fractional poise within the poise as an intrical part of the poise which accounts for the weights between hundreds. In other words, the five-pound fractions from 5, 10, 15, on up to 95.

Q. Well, now, with respect to the printing mechanism on this scale which printed these scale tickets, what part of the scale mechanism imprints the weight figures which appear on the scale tickets? A. Underneath the weigh beam itself there is a type bar similar to typewriter

type and also on the underside of the fractional poise bar which moves back and forth as you change it for various poundages between zero and
189 one hundred marks.

Q. Is it correct to state, Mr. Sherman, that the weight figures appearing upon those two scale tickets are printed by type bars either attached to the weigh beam itself or contained in the poise? A. That is correct.

Q. Now, with reference to Complainant's Exhibit No. 21 there is a weight figure stamped on that ticket of 12,910 pounds. With reference to that figure will you explain which type stamped each figure? A. The first three numbers, 129 would be printed by the type attached directly to the underside of the weigh beam itself and the last two figures, one zero, would be on the fractional poise bar underneath it and as you line them up by turning them, so that you have showing on the scale beam the weight of 12,910 pounds, when you put your scale ticket in the slot and press the ticket up against the type manually with a squeeze type lever it prints the entire number of 12,910 as shown on the beam.

Q. Is it correct to state that the last two digits of any weight figure printed upon this scale would be printed by the type bar contained in the poise? A. That is correct.

Q. And in what graduation are the figures upon this particular type
190 of bar? A. In the poise?

Q. Yes. A. Five-pound graduation.

Q. And what would be the first two digits on that type bar? A. Zero, zero.

Q. And the next would be what? A. Five, ought five.

Q. Zero five? A. The next would one zero and so on up, fifteen, twenty, twenty-five, thirty.

Q. Now, with respect to the last digit of any weight number if the last digit were a zero would that necessarily be the same zero on the type bar which printed that number? Do you understand my question? A. Yes, I think I do. If the last number was a zero, in other words, do you mean if it was a double zero or a two zero would that zero be the same in both cases, the ending zero?

Q. Yes, would it be the same type zero? A. No, it would be a different type.

Q. Because of the graduations on the type bar, is that correct? A. That is correct.

191 Q. What determines, Mr. Sherman, what figure is printed on a scale ticket? A. That figure is determined strictly by manipulation of the poise.

Q. And the position of the poise upon the weigh beam and the position of the fractional poise, is that correct? A. That is correct.

Q. May weight be printed upon a scale ticket without any load being on the scale platform? A. Yes, it could.

Q. Was any load on the platform when you printed these tickets? A. None.

Q. Do you know the size of the scale platform of the scale of Midwest Order Buyers at Chapin, Illinois? A. Yes. Mr. McCoy and myself measured it. It was eight foot by fourteen foot.

Q. Do you know how many hogs can be weighed upon that scale at any one time? A. I observed while I was there in the company of Mr. McCoy 22 hogs placed on that scale and it was crowded, it was hard to get them on.

Q. Would you say that based on that observation that 22 hogs was about the maximum number of hogs that could be weighed upon that scale at any one time? A. If they were average hogs, that is weighing around
192 two, two twenty apiece, that is two hundred pounds, two hundred twenty pounds apiece.

Q. If they weighed more it would be a lesser number that could be weighed at any one time, is that correct? A. I would think so, yes.

Q. Directing your attention, Mr. Sherman, to Complainant's Exhibit No. 21, there is attached to such exhibit on the back a square piece of paper upon which has been imprinted a figure. Will you explain what this piece of paper is? A. Well, originally this piece of paper was attached to the front side of the Complainant's Exhibit No. 21 and was there at the time I printed the two weights on there.

Q. What do you call this square piece of paper, Mr. Sherman? A. Merely a piece of carbon paper to allow the imprint to show on the first scale ticket. Otherwise you would have nothing but an indentation with no inked figures or no carbon figures.

Q. And at what, on what part of the scale ticket was this carbon flap attached at the time you printed the scale ticket? A. To the extreme left side of the front so that the indentations as shown on the flap which is attached to the back of Complainant's Exhibit No. 21 was directly over the weight figures as shown on the front of Complainant's Exhibit 21.

193 Q. During the time that this scale ticket was in your custody was that carbon flap always attached to the front left-hand side of the scale ticket? A. Yes, it was.

Q. And is your testimony with respect to the carbon flap attached to Complainant's Exhibit No. 21 equally applicable to the carbon flap attached to Complainant's Exhibit No. 22? A. Yes, it is.

Q. What part of Complainant's ExhibitsNos. 21 and 22, if any, would be printed on it, or the type of the scale mechanism come in direct contact with? A. I don't believe I got that. What part of the scale ticket would the type come in contact with?

Q. Yes. A. It comes in direct contact with the flap which is on the back at the present time.

Q. At the time you printed these scale tickets, Mr. Sherman, did you write anything on the scale tickets? A. Yes, I wrote on the back of both of them "Chapin, Illinois, February 21, 1957, E.W.S."

Q. Both of these exhibits bear that information and your initials?

194 A. They do.

MR. MILLER: May I have these marked, please?

PRESIDING OFFICER BAIN: They may be marked as Complainant's Exhibit 32 through 41.

(Thereupon the documents above referred to were marked for identification as Complainant's Exhibits Nos. 32 thru 41.)

BY MR. MILLER:

Q. Mr. Sherman, I hand you a series of documents which have been marked for identification as Complainant's Exhibits Nos. 32 through 41. Each of these exhibits consists of several parts which have been separately lettered. I ask that you look at each of the documents making up this series of exhibits and state whether or not you can identify any of the documents in these exhibits, and if so, state which documents they are. A. Complainant's Exhibit No. 32 is composed of five scale tickets marked A,B, C, D and E, which were printed at Chapin on the scales of the Midwest Order Buyers.

Q. Were any of those scale tickets printed by you? A. And Exhibit No. 32-C was printed by me.

Q. How do you know? A. I have Chapin, Illinois, February 19, '57 and my initials on the back, which I put there at the time I printed it.

MR. MELNICOFF: Pardon me, what was the date, please?

195 THE WITNESS: The date was 2/19/57.

A. (Continuing) Complainant's Exhibit 32-D was also printed by myself and I identified that in the same manner, I put the name Chapin, Illinois, the date February 19, '57, and my initials E.W.S. on the back of that.

Complainant's Exhibit 32-E was printed by me and identified in the same manner.

Q. Will you go through the rest of the exhibits, Mr. Sherman, and identify the ones which you printed? A. Complainant's Exhibit 34-A was printed by myself, identified by my initials on the back side, the date February 21, 1957, Chapin, Illinois.

Complainant's Exhibit No. 36-A was printed by myself. I identify that from my initials on the back side, the date 2/21/57, Chapin, Illinois.

Complainant's Exhibit No. 37-A was printed by myself at Chapin and that is identified by my initials on the back and the date 2/19/57, the words Chapin, Illinois.

Q. Is that 37-A? A. Yes, 37-A.

Complainant's Exhibit 38-C was also printed by me at Chapin, Illinois. I identified that by my initials on the back side and the date 2/21/57 and the words Chapin, Illinois.

Complainant's Exhibit No. 39-A was printed by me. It is also identified with my initials on the back, the date February 19, '57, the
196 words Chapin, Illinois.

Complainant's Exhibit No. 40-A was printed by me and that's identified by my initials on the back, the date 2/21/57, Chapin, Illinois.

And Complainant's Exhibit 41-C was printed by me and that is also identified with my initials on the back side of the ticket, the date 2/21/57 and the words Chapin, Illinois.

Q. Now, Mr. Sherman, you have identified Complainant's Exhibits 32-C, 32-D, 32-E, 34-A, 36-A, 37-A, 38-C, 39-A, 40-A and 41-C as scale tickets printed by you upon the Midwest Order Buyers' scale at Chapin, Illinois. Were each of these scale tickets printed by you in the same manner which you described in printing scale tickets identified as Complainant's Exhibit 21 and 22? A. They were.

Q. And were these scale tickets plus the scale tickets covered by Complainant's Exhibit 21 and 22 all of the scale tickets which you personally printed at Chapin, Illinois? A. Yes.

Q. Were all of these tickets printed on the same scale? A. They were.

Q. Now, with respect to each of these scale tickets which you have just identified, immediately to the left of each of these scale tickets as they appear on complainant's exhibits is a carbon flap upon which a figure has been imprinted. Would your testimony with respect to those carbon
197 flaps be the same as your testimony with respect to the carbon flaps attached to Complainant's Exhibit 21 and 22? A. It would.

Q. After you printed these scale tickets, Mr. Sherman, all of these scale tickets which you have just testified about including Exhibit 21 and 22, what, if anything, did you do with them? A. I kept them in my possession until I arrived back at the Packers and Stockyards office in National

Stockyards. There I placed them in the file and kept them until I later mailed them to our Packers and Stockyards office in Washington.

Q. Were these scale tickets in your care and custody from the time they were printed until the time they were mailed to the Packers and Stockyards Branch, Washington, D. C.? A. That's correct.

Q. Did you when you mailed these scale tickets to Washington mail any other scale tickets printed on the Midwest Order Buyers' scale at Chapin, Illinois? A. I mailed the ones that Mr. McCoy printed also at the same time.

Q. And were the scale tickets which Mr. McCoy made upon that scale in your care and custody from the time they were made until the time they were mailed to the Packers and Stockyards Branch, Washington, D.C.? A. They were.

198 MR. MILLER: May the Examiner please, at this time complainant offers in evidence Complainant's Exhibits 21 and 22. I will withhold offering Complainant's Exhibits 31 through 41 until Mr. McCoy has had an opportunity to identify the remaining documents.

* * * * *

199 MR. MELNICOFF: I see. Mr. Examiner, there I again object. There is no connection yet that I can see with any of the issues or any of the respondents mentioned in this case and, therefore, I object to it. As a matter of fact, it doesn't do anything, it is just a record of an ex parte scale weighing expedition indulged in by the witness. For what purpose or for what reason I don't know, it is not in this record. He simply weighed up a lot of scale tickets simply for his own amusement so far as this record is concerned. I object.

PRESIDING OFFICER BAIN: Will these be connected up later with transactions alleged in the complaint.

MR. MILLER: Yes, sir.

PRESIDING OFFICER BAIN: Exhibits 21 and 22 are admitted.

* * * * *

200 BY MR. MILLER:

Q. Mr. Sherman, I hand you a document which has been marked for identification purposes as Complainant's Exhibit No. 42. I ask that you examine it and state what it is, if you know. A. Complainant's Exhibit 42 is an affidavit sworn to before me by George J. Ischer, Jr., on the first day of February, 1957.

Q. Will you describe in detail, Mr. Sherman, the circumstances under which you obtained this statement? A. I talked to Mr. Ischer this morning and he described to me the operations of the Midwest Order Buyers. I made notes on that description of his and after we were through I told him there was certain things in there that I would like to have an affidavit on so we sat down and drew up this affidavit. I wrote it. Mr. Ischer read it. He said it was the truth but before he would sign it he wanted to call Mr. Sparks and read it to him. Mr. Ischer took the statement before he had signed it, went into his office, we were at the time across the hall in another office, and he called Mr. Sparks and he

201 read the statement to him over the telephone and he came back and said Mr. Sparks wanted to talk to me. I went into his office and picked up the phone and talked to Mr. Sparks about the statement. Mr. Sparks --

Q. (Interrupting) Did you read the statement to Mr. Sparks at that time? A. Over the telephone I read it again to him. Mr. Sparks says, "Well, that's the way we operate and I'm going to have him sign it. Put Mr. Ischer back on the phone". Mr. Ischer got back on the phone and talked a little while, came back in the other room with me and I swore him in and then he signed the statement.

Q. Did he sign the statement in your presence? A. In my presence and in the presence of Mr. Robert G. McCoy.

MR. MILLER: I offer in evidence Complainant's Exhibit 42.

* * * * *

BY MR. MELNICOFF:

Q. Now, Mr. Sherman, may I see the original, please? Would you mind exchanging copies with me for the moment so that I may have the

202 original and you now have the photostat reproduction, is that right? A. That's right.

Q. Now, there at the very end of this statement there is the phrase "Subscribed and sworn to before me at Chapin, Illinois, on this 1st day of February, 1957". There is a signature, Earl W. Sherman, is that your signature? A. That's my signature.

Q. And underneath that there is the type employee of the Department of Agriculture designated under the Act of January 31, 1925. What does that mean Act of January 31, 1925? A. That means that I am an employee of the Department of Agriculture that's designated to take oaths and affirmations.

Q. Have you ever read that Act? A. Have I ever read the Act?

Q. Yes. A. No.

Q. Ever seen it? A. I don't think so.

Q. Then how do you know that it empowers you to do what you said it does? A. Because I have a specific authorization.

Q. Where is that specific authorization? A. In my office.

Q. Do you know what that says? A. It says that I am empowered
203 to take oaths and affirmations under the regulations of the Packers and Stockyards Act.

Q. You don't have that with you? A. No.

Q. Do you have objection to bringing that to the hearing? A. I don't think so.

Q. Will you bring it with you, then, this afternoon if that's convenient? A. Would in the morning be all right?

Q. Or tomorrow morning.

MR. MILLER: Mr. Melnicoff, I have a designation issued to another employee of the Department of Agriculture which I have no objection to your using to ask Mr. Sherman if his designation is similarly worded.

MR. MELNICOFF: All right, I will be glad to use that in just a moment.

Do you have with you a copy of the Act of December 31, 1925?

THE WITNESS: Are you speaking to me?

MR. MELNICOFF: No, to Mr. Miller, he kindly said he had the other designation, I thought he had the other one, too.

PRESIDING OFFICER BAIN: Is this going to be offered as the testimony of George J. Ischer, Jr., as an affidavit made by him?

204 MR. MILLER: It is going to be offered as an admission of an agent of Mr. Sparks and as an admission of Mr. Sparks.

MR. MELNICOFF: If that's the purpose of the offer that disqualifies it immediately. Mr. Ischer so far as we know is alive and is subject to subpoena and could be brought in here to testify.

MR. MILLER: Under all the general rules of evidence, even in court proceedings an admission by a party to a proceeding or his authorized agent is admissible whether it be testimony with respect to an oral admission or a written statement.

MR. MELNICOFF: But first it must be established as an admission. Merely a piece of paper, writing, no matter how endorsed or inscribed does not become an admission until it is proven an admission. You can't declare it to be an admission, you have to prove it is an admission.

PRESIDING OFFICER BAIN: Well, the reason I asked my question was I don't see that it making much difference as to whether Mr. Sherman had any authority to take an affidavit or not. It is not offered as an affidavit, it is offered as an admission. So I don't think we need to discuss the Act mentioned here or Mr. Sherman's authority or anything like that until he offers it as an affidavit. If it is offered as an admission.

205 MR. MILLER: You are correct, an admission does not have to be sworn, it may be a statement made by a party orally, it may be any type of writing or it may be under oath. This statement happened to be under oath.

PRESIDING OFFICER BAIN: Well, if it is important as to whether it was technically under oath or not, why, go ahead with your questioning.

MR. MILLER: I don't believe whether or not it was under oath makes any difference since it is offered as an admission.

MR. MELNICOFF: May I inquire now the nature of the offer, then?

MR. MILLER: It is being offered into evidence as an admission of the person making the statement and also as an admission of respondent.

MR. MELNICOFF: Mr. Examiner, as an admission it has been
improperly qualified because it has not yet been established, the
relationship between the person who actually made the statement
and the person against whom the admission is sought to be made. It
is quite clear that an agent cannot prove his agency by his own state-
ments. Now, to permit this statement here to come in as an admission
against the respondents then there are other arguments against that
but just on this bare statement here is improper. I was assuming that
it was coming in as the testimony of Mr. Ischer and therefore, the oath
206 was important but merely to tell me now this is an admission
without further, without an adequate background of proof is improper.
I object on that ground.

MR. MILLER: It has already been established, Mr. Melnicoff, that Mr. Ischer was an employee of Midwest Order Buyers and in fact he was the general manager of the office at Chapin, Illinois.

MR. MELNICOFF: The only testimony in that regard, Mr. Examiner, if you recall, is that testimony given by Mr. Sherman as to what Mr. Ischer told him. That's the only testimony that we have here is the testimony of Sherman about what Ischer told him. You can't prove an agency by the agent's statements.

PRESIDING OFFICER BAIN: Well, on the testimony Mr. Sherman talked to what he says was an employee, that employee called what he said was his general manager or boss or however you want to express it, Mr. Sherman talked to him over the telephone and that boss who is one of the respondents here told him to go ahead, that that was all right to sign it. I think that qualifies as an admission.

MR. MELNICOFF: I take it, then, you have overruled my motion. I disagree with you, of course, but I just want to keep my record straight.

PRESIDING OFFICER BAIN: What motion?

MR. MELNICOFF: That this paper be denied entrance into this
207 record as an admission for the reasons I have indicated.

PRESIDING OFFICER BAIN: Well, I think it should be admitted.

MR. MELNICOFF: If it is offered as an admission?

PRESIDING OFFICER BAIN: Yes, sir.

MR. MELNICOFF: Very well, then, we will continue just a little further.

BY MR. MELNICOFF:

Q. Now, Mr. Sherman, you say that you discussed this matter, the matters which appear here on this Exhibit No. 42 for identification with Mr. Ischer, is that right? A. That's correct.

Q. And where did you discuss it with him? A. This statement was in the, given to me in the office as you mentioned yesterday at the right of the stairs, upstairs at Chapin.

Q. That's the office which had been assigned to you to conduct your investigation, is that right? A. That's correct.

Q. What time of the day was this statement taken? A. I don't remember just exactly.

Q. Well, do you have any idea about when it was taken, was it
early morning or late in the day? A. I started talking with Mr. Ischer
generally, I think, sometime in the early morning. I can't state now the
208 precise time, in his office, across the hall to the left of the stairs
first.

Q. That's when you first began this discussion with him? A. That's correct.

Q. And that was on February 21, 1957? A. February 1, 1957.

Q. That was after you had been in that place for about two weeks, is that right? A. No, I had been there, I believe, about four days.

Q. Didn't you tell us yesterday that you had arrived there about the middle of January '57? A. No, I did not.

Q. What did you say? A. I said I was there the last week in January.

Q. So it is your testimony now that you arrived there the last week in January? A. That's correct.

Q. And Mr. McCoy, he was there ahead of you? A. Yes.

Q. And he was the one that arrived January 14 about, the middle of January? A. He had been there, I believe, the week prior to the time I arrived.

Q. So let's get this fixed now. As far as you know it is
209 your best recollection and your testimony under oath that you
arrived at Chapin, Illinois, the last week of January 1957? A. I arrived
there January 28th.

Q. January 28th? A. That is right.

Q. You can fix that figure definitely now? A. That's right.

Q. You couldn't fix it yesterday? A. I looked at my travel voucher this morning.

Q. So since that time you looked at your travel voucher and you tell us you arrived January 28, 1957? A. That's right.

Q. In Chapin, Illinois? A. Yes, sir.

Q. And that was the first day that you were in this office at Chapin? A. That's right.

Q. And then four days later on February the 1st you took this statement from him? A. Approximately four days.

Q. All right, February the 1st? A. February the 1st.

Q. Now, you say that you began this discussion with him in the
morning, you say? A. I believe so, I don't quite remember whether
210 it was morning or afternoon. That's been quite sometime back.

Q. Was this one continuous interview? A. No, I talked to Mr. Ischer at some length in his office there first and then I went across the hall and he called Mr. Sparks, if I remember right, and read to him my notes that I had made at that time about our conversation, that was prior to this.

Q. And then from those notes you made up this statement here? A. That is correct, that is the two of us and in talking, making the affidavit in this form did not have everything I had in those notes.

Q. But you had some notes prior to this? A. Yes.

Q. Where are those notes, do you have them? A. I think they are here someplace.

Q. Would you produce them, please?

PRESIDING OFFICER BAIN: Well, did you read those notes to the respondent?

THE WITNESS: Yes, I handed them to him.

PRESIDING OFFICER BAIN: I mean Mr. Sparks, the respondent?

THE WITNESS: Mr. Ischer read them to him.

PRESIDING OFFICER BAIN: He had all your notes?

211 THE WITNESS: Yes, over the telephone.

PRESIDING OFFICER BAIN: Go ahead.

THE WITNESS: I can't seem to find my original, Mr. Bain, but I do have a Thermofax copy of the original.

MR. MELNICOFF: May I have those marked, Mr. Examiner, as Respondents' Exhibit 1, if you will, for identification?

PRESIDING OFFICER BAIN: All right.

MR. MELNICOFF: Or would you care to mark it 42-A? It makes no difference, just whatever is best.

PRESIDING OFFICER BAIN: Does the complainant wish to have it marked as an exhibit, either way?

MR. MELNICOFF: Mark it mine.

PRESIDING OFFICER BAIN: It will be marked as Respondents' Exhibit 1.

(Thereupon the document above referred to was marked for identification as Respondents' Exhibit No. 1.)

BY MR. MELNICOFF:

Q. Now, you said you only have one -- this exhibit, Respondents' 1 for identification, this is the paper that you produced, the three sheets of paper you produced in response to my inquiry to my request that you produce the notes that you just spoke about, is that right? A. That's correct.

212 Q. And these are in your handwriting? A. That's correct.

Q. And they were made on February the 1st, 1957, by you? A. That is correct.

Q. And they were made by you in conversation with Mr. Ischer, you have said? A. That is correct.

Q. And were these made all at one time or were they made in the course of the whole day or part of the day? A. If I remember right I sat down in a chair next to Mr. Ischer's desk and never got up until I was finished.

Q. And how long were you sitting in that chair beside Mr. Ischer's desk? A. I can't state exactly. I can read this last line here.

Q. I haven't read it so you tell me. A. "This information was related to me by George J. Ischer, general manager of Midwest Order Buyers in his office at Chapin, Illinois, on the morning of February 1, 1957" and my signature.

Q. It is now your recollection that this was an interview that took place during the course of the morning of February 1, 1957? A. That's what it says here, yes, sir.

Q. And was it an interrupted interview, was he called to the tele-
213 phone or called to perform any duties while the interview was taking place? A. I don't remember but I imagine he was.

Q. The time that you were there you noticed he was frequently called to the telephone, is that true? A. That is correct.

Q. And after you had sat there with him and gathered this information then you made this as you talked to him? A. That's correct.

Q. And these are in your handwriting, you say? A. That's correct.

Q. Then you went back over to your office? A. That is correct.

Q. And on the basis of the notes you made there you then prepared this Exhibit 42? A. That is correct.

Q. This affidavit? A. And in Mr. Ischer's presence.

Q. You wrote this out in what room, in his office or your office? A. Across the hall.

Q. And was he in your office at the time? A. He was.

Q. And as you were writing it did you consult your notes here?
214 A. To some extent.

Q. And did you also talk to him? A. That's correct.

Q. And you put together what he told you in addition to what you had already made notes of? A. Not unless he would let it go in the statement.

Q. That's true, and then it eventually appeared in final form on your Exhibit 42 for identification? A. Yes.

Q. Now, do you remember about what time of the day you finished that, could you give me any idea? A. No, I can't, I don't remember.

Q. Could I ask you whether it was before or after the hour of 12 noon? A. That I don't remember.

Q. Do you have any idea whether it was related in any way to the normal lunch period around 12 o'clock? A. That I don't remember.

Q. Who was in the office at the time you spoke to Mr. Ischer at the time you prepared those notes, Exhibit 1? A. Mr. Ischer, of course.

Q. Yes, you were there. A. And myself.

Q. Yes, anybody else? A. There very well could have been, I don't remember exactly.

215 Q. There was another desk -- A. (Interrupting) It seems to me Mr. Dod Bryant was in there or Mr. Hazelrigg, I don't remember.

Q. Mr. Bryant has a desk in the same office as Mr. Ischer's doesn't he? A. Yes.

Q. Could he have been there? A. Yes.

Q. You don't remember? A. I don't remember.

Q. Mr. Hazelrigg's desk was in the office across the hall that you were using? A. Yes.

Q. You say he could have been there? A. In and out.

Q. But you can't say that he was or he wasn't? A. I can't remember right now.

Q. Where was Mr. McCoy? A. While I was writing these notes?

Q. Yes. I believe Mr. McCoy was across the hall.

Q. And did Mr. McCoy ever come across the hall with you? A. I don't believe so while I was writing the notes.

Q. Did he ever come across with you when you presented this
216 piece of paper here to him, Exhibit 42, to Mr. Ischer? A. Mr.

Ischer was in the room with us on the other side of the hall with Mr. McCoy and myself when this whole thing was written.

Q. And Mr. McCoy was in there? A. Mr. McCoy was with Mr. Ischer and myself.

Q. And he heard you discuss this with Mr. Ischer at the time you were preparing this Exhibit 42? A. That's correct.

Q. And then when you went back, then you went back over across the hall, was that your testimony? A. Mr. Ischer took this statement before he had signed it and went back across the hall and called Mr. Sparks.

Q. Were you present when he called Mr. Sparks? A. No, I could hear him, the door was open, I could hear him.

Q. Did you hear him place the call? A. I heard him, yes, I heard him place the call, I heard him read the statement.

Q. How did you know it was Mr. Sparks on the other end of the wire? A. Because without hanging up he called me and said Mr. Sparks wanted to talk to me.

Q. You spoke to Mr. Sparks? A. Yes.

217 Q. You know his voice? A. I know his voice.

Q. You would recognize it over the telephone? A. I knew it then.

Q. You don't know it now? A. I see Mr. Sparks every day.

Q. Well, do you hear Mr. Sparks every day? A. Every day.

Q. Over the telephone? A. Not every day over the telephone, no.

Q. All right. Now, when this conversation took place over the telephone you say you, when the call was placed you were back over in your office? A. That's correct.

Q. So your only knowledge of the fact that Mr. Sparks, that Ischer placed the call to Sparks was a hearing of it? A. His statement that he was going to call Mr. Sparks and he did make a call and he called me to talk to Mr. Sparks.

Q. Did you hear what he said to Mr. Sparks before you came over there? A. He told Mr. Sparks that --

Q. (Interrupting) You heard this now? A. Yes, that he had a statement that I wanted him to sign.

Q. You were across the hall? A. And that it was somewhat different
218 than the notes he had read to him in the morning and he wanted to read it to him and he read it to him.

Q. You heard all this? A. Yes.

Q. And then you were called in and spoke to Mr. Sparks? A. That's correct.

Q. What did you speak to Mr. Sparks about? A. This statement.

Q. Did you read it to him? A. If I remember correctly I did.

Q. Well, now, do you remember correctly? A. I am sure I read it to Mr. Sparks over the telephone.

Q. Did he comment on it? A. Yes, Mr. Sparks says "That's exactly the way we operate".

Q. Did you comment on it? A. I says, "Well, Mr. Ischer tells me that it is the truth".

Q. Did you tell him of the purpose of giving this statement? A. I didn't discuss that, no.

Q. Did you ever discuss it with anybody? A. Purpose?

Q. Yes, purpose. A. Yes, I discussed the purpose.

219 Q. With who? A. Of finding the truth.

Q. With who? A. Mr. Ischer and Mr. Sparks.

Q. What did you tell him? A. I asked him if that was the truth.

Q. Did you tell him why you wanted the statement? A. I wanted the statement to determine the truth.

Q. How would the statement determine the truth? What did you tell Mr. Ischer when you first began your discussion with him as a result of which you made these notes? A. I wanted to find out how his firm operated, his explanation of how they operated.

Q. And what did you ask him? A. Just that.

Q. Just what? A. When we started talking, how his firm operated.

Q. Did you show him these notes? A. Yes, sir, he read those notes to Mr. Sparks.

Q. And then did you tell him, then when you presented this affidavit to him did you tell him why you wanted an affidavit? A. Other than that I wanted an affidavit?

Q. That you wanted an affidavit? A. Yes.

220 Q. Now, at the time that you prepared this information, for example, relating to this March 7, '56, bill in the Hunter Packing, do you see that, on the first page of this affidavit? A. Yes.

Q. Where did you get that information? A. We had invoices from the records.

Q. You had them or Mr. McCoy had them? A. I believe I had them.

Q. Had you seen them? A. Oh, yes.

Q. Now, at the time you read this, that this conversation took place with Mr. Ischer and, as you say, with Mr. Sparks who was in the room at that time? Now, this was in what room, this was, as I understand it, in Ischer's office? A. At the time I had what now?

Q. This conversation over the telephone, that was in Ischer's office, is that right? A. When I had the conversation with Mr. Sparks?

Q. Yes, sir. A. That was in Mr. Ischer's office at his desk.

Q. And you can't give us the time, can you? A. No, not exactly.

Q. You say you don't know whether Mr. Bryant was there or not?

221 A. No, I don't remember.

Q. Mr. McCoy was not in the room at that time? A. I don't believe Mr. McCoy was there when I talked to Mr. Sparks.

Q. Did you have any conversations with Mr. Bryant concerning this affidavit in any way? A. Yes. After Mr. Ischer signed it Mr. Bryant wanted to know if he could have a copy of it.

Q. What did you tell him? A. I says, "Well, I didn't make a copy." If he wanted to copy it on the typewriter while I was there that I would be very glad to let him do so.

Q. So did you ask him to make a copy of this affidavit? A. No, he asked me if he could make a copy.

Q. He asked you? A. Yes.

Q. And you gave him copies? A. No, he made them.

Q. You gave him the original for which to make the copy, I should have said? A. That's right.

Q. Now, isn't it true that Mr. Bryant had just come into the office that you asked him to do that? A. I didn't ask him to do that. I don't remember whether he had just come in or whether he hadn't.

222 Q. Isn't it true that at the time Mr. Bryant offered to make a typewritten copy, as you have said, that he had just come into the office? A. I don't remember. I believe Mr. Bryant -- I believe I was across the hall and he walked over there and asked me if he could have a copy, if I remember correctly. That's been two years ago.

Q. Well, now, let's get this accurately now. You said that while you were talking with Mr. Ischer over the telephone that Mr. Ischer then signed that affidavit in his office, at his desk, is that right? A. That is not right, I didn't talk to Mr. Ischer over the telephone, I talked to Mr. Sparks over the telephone. Mr. Ischer signed this statement across the hall.

Q. Across the hall in your office? A. In the office we were using.

Q. And then Mr. Bryant came into that office? A. Not at that time, I don't believe. It was somewhat later, I'm not sure now, I tell you I don't remember, that's been too long ago. I do remember Mr. Bryant came and asked if he could have a copy, he copied this on the typewriter.

Q. Now, isn't this the fact, Mr. Sherman, I want you to think very carefully, that at the time that this Exhibit 42 was signed by Mr. Ischer that it was signed by Mr. Ischer in his office at his desk, is that right,

223 or is that not right? A. That is not right.

Q. And is it a fact that at the time this affidavit was signed that shortly thereafter that Mr. Bryant either asked you or you asked him to prepare a typewritten copy, is that right? A. Shortly after Mr. Ischer signed this, swore to it, Mr. Bryant came and asked me if he could have a copy.

Q. Did Mr. Bryant ask you for that copy while you were standing in Mr. Ischer's office beside Mr. Ischer's desk? A. I do not remember where he asked me for it.

Q. Will you say that he did not ask you for it at that point? A. I won't say one way or the other, as I said, I do not remember.

Q. Well, is it my understanding, then, that you were in your office at the time that he asked you for this affidavit?

MR. MILLER: I think the witness has fully answered that question.

A. I don't remember.

MR. MELNICOFF: I think the witness' testimony will show that he insists that he was in his office. I am trying to establish this point.

224 BY MR. MELNICOFF:

Q. Now, you don't remember where you were at the time Mr. Bryant asked to typewrite this copy? A. Physically, what room I was in I don't remember.

Q. But you do say that Mr. Ischer signed it not in his office but in your office? A. That is correct.

Q. And he signed in the physical presence of Mr. McCoy? A. That is correct.

Q. And Mr. McCoy was there? A. That is correct.

Q. Was it shortly after 12 o'clock noon? A. I don't remember.

Q. Would you say it was not? A. I say I don't remember.

Q. You can't relate it in any way to the lunch hour? A. No, I remember or I know from this statement here that it was in the morning when I took these notes. This has no time on it.

Q. And you don't recall when that was done? A. I don't recall just exactly when it was.

Q. And you don't have any notes from which you could refresh your recollection? A. No, I don't.

* * * * *

226 BY MR. MELNICOFF:

Q. Mr. Sherman, in this statement, Exhibit 42 for identification, you notice there at the very top of the pencilled writing which I understand you made, there is the phrase "As general manager I make all the bills or invoices which are sent to the various buyers." Do you see that statement there? A. Yes, sir.

Q. Then may I call your attention to the last page, I guess it is the penultimate sentence, again as follows: "I stated that I made all the bills or invoices, actually I or my assistants make out these bills to the buyers. I don't always do it personally." Do you see that? A. Yes.

Q. Now, that represents, does it not, a change of statement, that is, he says something in the final part that he doesn't say in the first statement I made, is that right? A. That's right.

Q. And yet you say you wrote this all up at one time. Or did you say you did? A. It would be impossible to write it all at once, you have to write it in sequence.

Q. But you wrote this first part, of course you wrote that first?

227 A. Right.

Q. And you said something in there that later on was negative in the final statement, towards the end there? A. Qualifying, yes.

Q. He qualified it. So how is it, then, that you wrote something in the first part that required a qualification thereafter? A. I suppose Mr. Ischer decided that that first wasn't exactly correct.

Q. Well, do you know? A. And he wanted to make the correction.

Q. But as you wrote it up originally, then, you didn't have the qualification in there. A. Mr. Ischer during the course of writing this up several times would think of things he wanted in there and they were in at his request.

Q. Well, Mr. Sherman, I am frank to tell you that I am somewhat confused. As I understood it, that after a conversation with Mr. Ischer in which you took some notes which are here as Respondent's Exhibit No.

1 for identification, that you then prepared the Exhibit 42. That's been your testimony to this extent? A. That's after this.

Q. By "after this" you mean after the Respondent's Exhibit No. 1, the notes were made, these were made first in sequence? A. That's
228 right.

Q. They were made by you? A. That is correct.

Q. And they were made by you in conversation with Mr. Ischer? A. That's correct.

Q. Then on the basis of that you went back and made Exhibit 42, that's the affidavit? A. Yes, sir.

Q. And then, of course, here you now present this to me here, in the first part you have one statement had which you admitted to me is qualified in a subsequent statement? A. That's correct.

Q. So then this affidavit was written at least two different times because once you wrote one thing and another time after Mr. Ischer saw it apparently he changed his mind about something and you qualified it? A. Mr. Ischer qualified it.

Q. Well, you reported Mr. Ischer's qualification then? A. That's right.

Q. At a subsequent time? A. At the same time we were writing this up.

Q. Then you mean to tell me, then, that you wrote this up without a single erasure or interlineation of any kind even though there were statements in there that required a qualification? A. There is not an
229 erasure on it.

Q. That's right. Yet the fact remains the first part is qualified to the extent that I read it by a second part? A. That is correct.

Q. Now, in your notes, here you have various statements but there is no reference in your notes to this item of March 7, 1956, which appears in your Exhibit 42, is that right? Would you examine it and tell me whether I am correct in that or not? A. Now what was your question again?

Q. Is there any reference in your notes, Respondent Exhibit 1 for identification, to the item of March 7, 1956, as it appears in Complainant's Exhibit 42 for identification relating to Hunter Packing Company? A. Only inasmuch as he stated in this note that he at times added weight to buy weights to take care of shrinkage.

Q. But the example that is cited in Exhibit 42 for identification is not cited in your notes. A. No, it is not.

Q. When did you become familiar with this transaction which appears in Exhibit 42? A. He stated at the time, I had it prior to this statement.

230 Q. Prior to this statement? A. Apparently, yes.

Q. Well, apparently now, are you deducing that from the fact -- A. (Interrupting) The statement itself would show that I had it prior to that time.

Q. But outside of that you have no knowledge, of course? A. I can't remember, no, not at this point.

Q. Did you have that knowledge at the time you prepared these notes? A. I rather imagine I did.

Q. But yet you didn't put it in your notes, is that right? A. At this time Mr. Ischer was relating to me how they operated.

Q. When did you learn from Mr. Ischer that he was the general manager and that he made out all the bills and invoices? Was that before or after you made these notes, Exhibit No. 1? A. I knew it before that.

Q. Sir? A. I knew that he was general manager before that.

Q. Mr. Sherman, is this what happened, that you presented this, by "this" I mean Exhibit 42, to Mr. Ischer, and that after reading it he decided that he wanted to qualify the statements that appeared therein

231 with regard to what he does with invoices? A. I don't know what you mean by presented. Mr. Ischer stood there and told me that he resided at No. 1 North Crescent Drive, Jacksonville, Illinois.

Q. And as he -- A. (Interrupting) And he had to tell me these things for me to put them down.

Q. So as he told you these things you put them down? A. That's correct. This particular item in here I questioned him about and was writing it.

Q. Which particular item are you talking about now? A. The March 7, 1956, billing to Hunter Packing Company.

Q. You questioned him about this as you were writing it down? A. That's right.

Q. That was the second time you questioned him about it, isn't that right, at least the second because you questioned him about it when you made these notes? A. Here I questioned him about weights, how they arrived at the weights.

Q. But you just told me that the example that you mentioned that appears in Exhibit 42 appears in Exhibit No. 1 except that it isn't named in Exhibit No. 1? A. No; I said there is reference to it inasmuch as it
232 says here that they did add weights.

Q. I see. There is a reference to it? A. That's right.

Q. And yet when you came to make up Exhibit 42 you found it necessary to question him again about it? A. That's right.

Q. And from what he told you then you apparently put down here in Exhibit 42? A. I put the detail down. This was strictly general.

Q. Now, then, when you presented these notes to him about what time of day as near as you can remember or can you remember? A. I believe Mr. Ischer asked me right after we got through talking if he could read those to Mr. Sparks.

Q. These notes? A. Yes.

Q. And as far as you know he did? A. Yes.

Q. And that was the time you got on the phone and explained them to Mr. Sparks, too? A. Yes.

Q. And then after that was done then you further prepared this, by "this" I mean Exhibit 42? A. That's right.

Q. And then this was executed, you say, in the presence of Mr.
233 McCoy? A. That's correct.

Q. Now, coming back to the copy, you say Mr. Dodd came to your office? A. Mr. Dodd did come and ask if he could have a copy of this.

Q. How long was this after the affidavit had been signed? A. That I don't remember.

Q. Was it sometime shortly thereafter would you say, during the course of that day? A. Yes.

Q. During the course of the day he came in and asked you for a copy of that affidavit? A. If I remember correctly, yes.

Q. You are certain it wasn't right after the time that Mr. Ischer signed it? A. It was after he signed it, yes.

Q. But not a short time after, it was sometime during that day after he signed it? A. That's right.

Q. But it wasn't contemporaneously with it, that is, George didn't sign it and then give it to Mr. Dodd to make a copy? A. No.

Q. That is not what happened? A. No.

234 Q. I see. All right. A. No.

MR. MELNICOFF: This concludes, so far as I am concerned, Mr. Examiner, the examination on the admission of the document. The reason that I asked the reference to the statute, I am sorry I don't have it here with me, the statute under which this exhibit was taken provides that such persons as Mr. Sherman and others in his category are under the purpose of this Act permitted to take certain statements in the course of an investigation. Now our position is this, that this was not the kind of an investigation that was authorized to be performed since it was into the books and records, practices, et cetera, of an entity, Midwest Order Buyers, which is not subject to the Packers and Stockyards Act. Therefore in connection with this it was not the kind of an investigation that is envisaged by the Act of January 31, 1925, and for that reason I object to its admission into evidence.

Furthermore, this witness has demonstrated, I believe, a complete lack of recollection to the point that I doubt seriously whether his testimony is of sufficient solemnity to sponsor this exhibit into evidence.

Moreover it relates, as does most of the evidence here so far, to an entity which is not a part of this proceeding, which is not subject to the Packers and Stockyards Act and is therefore improperly considered here. For
235 those reasons and on those grounds, Mr. Examiner, I respectfully request that admission in evidence be denied to this Exhibit 42.

PRESIDING OFFICER BAIN: I don't think the objections are good. It is admitted.

(Thereupon the document heretofore marked as Complainant's Exhibit No. 42 was received in evidence.)

MR. MELNICOFF: Very well, Mr. Examiner, may I at this time by stipulation, since my case is not on, and I believe it is a part of it, have admitted in evidence Respondent's Exhibit No. 1, the notes? Would it be convenient to designate it now as 42-A? I believe that the two should go together.

MR. MILLER: You have been referring to it, Mr. Melnicoff, as Respondent's Exhibit 1. It might be, could be confusing at this point to assign a different number to it.

* * * * *

236 MR. MELNICOFF: Very well, then, Mr. Examiner, I ask that Respondent's Exhibit No. 1, the notes to which this witness, Mr. Sherman, has been referring, be admitted into evidence as Respondent's Exhibit No. 1. I realize it is out of turn and this is somewhat unusual, but as I understand it, the complainant has no objection. I ask that the rule be waived in that regard.

PRESIDING OFFICER BAIN: Is there any objection?

MR. MILLER: No, sir.

PRESIDING OFFICER BAIN: Respondent's Exhibit 1 is admitted.

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DIRECT EXAMINATION (continued)

BY MR. MILLER:

Q. Mr. Sherman, I'm not exactly sure that the record is clear on this particular point. With reference to Complainant's Exhibit No. 42,

237 which you have identified as a sworn statement made before you by George J. Ischer, and also with reference to Respondent's Exhibit No. 1, which of these documents was read to Mr. Sparks or discussed with Mr. Sparks over the telephone or were both of them read to Mr. Sparks? A. Both of them were read to Mr. Sparks.

Q. Both of them were discussed with Mr. Sparks, is that correct? A. Yes, both were discussed with Mr. Sparks by me.

* * * * *

239 CROSS EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Sherman, you have told us this morning that you finally arrived at Chapin, Illinois, on January 28, 1957. Do you recall that? A. Yes.

Q. You say you consulted your travel records and that is the time you arrived there as shown by your travel voucher records? A. That's correct.

Q. Can you tell us the circumstances under which you were directed to conduct that investigation of Midwest Order Buyers? A. Mr. Bowman that I mentioned yesterday, was in our St. Louis office sometime prior to January 28, shortly before, I don't remember just how many days, and he asked me to go to Chapin and make a trade practice audit of the books and records there as it pertained to purchases and sales from the posted stockyards of Springfield, Peoria, and Bushnell.

Q. And were you, you were told that that was to complete the audit that had been begun by Mr. Smith, is that right? A. No, that's not right.

Q. Well, what relation did the audit begun by Mr. Smith have with

240 what you were asked to do? A. Mr. Smith was making, I believe, what you would say was a balance sheet audit from the records of Mr. Gilby, that Mr. Gilby had in his possession of Peoria and Bushnell and subsequently went to Peoria using those records and found while he was there that he could not make a trade practice audit along with his financial audit because at those points he only had purchase records, therefore a trade practice audit wasn't made by Mr. Smith.

Q. But the audit that had been done by Mr. Smith was not complete, is that right? A. As far as the financial audit that he started out, yes, it was done.

Q. And your work, among other things, was to give completion to Smith's work, is that right? A. As far as I was concerned it was a separate and distinct trade practice audit.

Q. Did it have any relation to what Mr. Smith had done? A. Not that I know of. Not particularly.

Q. Well, you said you had read Mr. Smith's audits as background, as I recall, is that right? A. Whenever I make an audit of any firm I read all prior or previous audits even if I made it myself before I give an audit again.

Q. But Mr. Smith's work was not complete because he didn't have,
241 as he said, sufficient information to conclude what work he had been doing, is that right? A. He didn't make a trade practice audit at all. He just made a financial audit.

Q. Then of course you were to make a trade practice audit? A. That is correct.

Q. And that was in connection with the same entities that Mr. Smith had been working on? A. I included Springfield.

Springfield is in our territory and of course Chapin is in our territory also.

Q. So you made an audit of the entities upon which Mr. Smith had worked as well as some that he had not worked? A. Two of them he had worked on, Peoria and Bushnell, that is, not in trade practice matters, just in financial.

Q. But your work, then, was a continuation of the auditing investigation of the entities upon which Mr. Smith had worked, among other things? A. I don't know whether you are getting the distinction between a financial audit and a trade practice audit or not. I did not make a financial audit. I made a trade practice audit.

Q. But had Mr. Smith been instructed to make a trade practice audit in his work? A. I don't know.

242 Q. But when you, but yours was a trade practice audit in part at least of some of the entities upon which Mr. Smith had made a financial audit, is that right? A. That's right.

Q. So that by the time your work was complete and when you put that together with work that Mr. M. C. Smith had done you would have both a financial audit and a trade practice audit of those entities upon which you both had worked? A. I don't believe you could call it a trade practice audit if either one of those two he had worked on by himself because I had three included in mine of Springfield.

Q. Yes, but he made a financial audit, you say of let's say one Sparks entity, all right, take any one that you like, is that true? A. He made a financial audit at Peoria and Bushnell, Bushnell stockyards.

Q. And did you make a trade practice audit of any of the entities upon which he had made a financial audit? A. Peoria and Bushnell.

Q. So that to the extent that you made a trade practice audit and he made a financial audit, your two audits together completed the work on those entities, is that right? A. I don't know how it would be completed. His was financial; mine was trade practice. Sometimes we make financial audit several times without making a trade practice audit and the other
243 way around.

Q. But you did make a trade practice audit of some of the entities upon which Smith had made a financial audit, is that correct? A. That is correct, as far as it pertains to sales through Midwest Order Buyers.

Q. Would you tell me again what your instructions were, you say they were generally to make a trade practice audit? A. That's correct.

Q. And you are sent specially out of the St. Louis office? A. Well, no more than I am sent specially on any job.

Q. Was there any, did you have a discussion with anyone with regard to the books and records that you were privileged to examine at the Chapin, Illinois, office? A. Do you mean with people at Chapin?

Q. With anybody, let's start that way. Did you have any discussions with anybody as to what books and records you were privileged to examine? A. Well, before we got any records or before I did we had to ask somebody for them. I was a perfect stranger there.

Q. Who did you ask for them? A. Oh, either Mr. Ischer or Mr. Hazelrigg usually.

Q. But that was after you got there? A. That's right.

244 Q. But you said Mr. McCoy was there about a week or so, is that right, before you got there? A. I guess he was there about three or four days before that, I'm not sure, the prior week, anyway.

Q. Yes, well, we will ask Mr. McCoy that when he takes the stand. Did you understand what books and records you were permitted to look at once you got to Chapin? A. I think Mr. McCoy had already had invoices, buy sheets, and some financial records he was looking at.

Q. Did you ever have any conversation with Mr. Hopper about this investigation? A. With Mr. Hopper?

Q. Yes. A. You mean our Chicago --

Q. (Interrupting) Yes, your Chicago man, sorry, I should have identified him. A. I have talked to Mr. Hopper many times.

Q. Did you every talk to him about this investigation? A. I probably have.

Q. Do you recall that you did? A. I think I have.

Q. Can you recall when that conversation was, sir? A. Specific instances no.

Q. Could you say whether it was before you came to Chapin, Illinois?

245 A. I wouldn't know whether it was or not.

Q. Was it in connection with the investigation at Chapin, Illinois? A. When?

Q. At the time you had this conversation with Mr. Hopper, you can't remember when? A. I say I expect I have talked to him about it, yes, to some extent, not too much.

Q. Did he ever give you any instructions with regard to how to conduct this investigation at Chapin, Illinois? A. No, sir.

Q. Did he ever tell you what books and records to look at while you were at Chapin, Illinois? A. No.

Q. Are you sure of that? A. Mr. Hopper?

Q. Yes. A. No, Mr. Hopper never did.

Q. Did anyone else ever tell you what books to look at? A. I very seldom have anyone tell me what books to look at.

Q. In that case you should remember if it is a seldom occurrence.

* * * * *

246 BY MR. MELNICOFF:

Q. Did anyone give you instructions, by anyone I mean anyone in your office, that is, in the Department of Agriculture, Packers and Stockyards Branch, did anyone ever tell you what books and records you were supposed to look at? You can answer that yes or no. A. Specific records?

Q. Yes. A. No.

Q. Did they tell you any class of records that you could look at?

247 A. Inform me as to what records I was to go and look at?

Q. That's right. A. No.

Q. Did anyone ever tell you that you were or were not to look at records of Midwest Order Buyers? A. No.

Q. Did anyone ever discuss with you whether or not you should look at records of Midwest Order Buyers? A. No.

Q. Did anyone ever mention to you that there was an understanding with the respondents as to what records you were permitted to consult? A. Not that I know of. I believe Mr. Hopper had obtained consent prior to Mr. Smiths going there and Mr. McCoy.

Q. You believe now that Mr. Hopper had obtained consent before Mr. Smith and Mr. McCoy went there, is that right? A. That's correct.

Q. Upon what do you base that belief? A. I believe Mr. Hopper sent us a letter.

Q. Mr. Hopper sent you a letter? A. Stating that he had requested the permission from Mr. Sparks.

Q. Stating he had gotten permission from Mr. Sparks? A. Yes, sir.

Q. Do you recall the date of that letter? A. No, I don't.

248 Q. Prior to January 28, 1957? A. Yes.

Q. Do you recall and do you know where that letter is now? A. I believe it is here.

Q. Would you produce it, please?

MR. MILLER: Do you know, Mr. Sherman, where the letter is?

PRESIDING OFFICER BAIN: Off the record while the witness looks for the letter.

(Discussion off the record.)

PRESIDING OFFICER BAIN: On the record.

MR. MELNICOFF: May this be marked just for identification, Mr. Examiner, as Respondent's Exhibit No. 2?

PRESIDING OFFICER BAIN: It may be so marked.

(Thereupon the document above referred to was marked for identification as Respondent's Exhibit No. 2.)

BY MR. MELNICOFF:

Q. Mr. Sherman, I now hand you a copy of a letter which I have had the Examiner mark as Respondent's Exhibit No. 2 and ask you if you know what that letter is, sir. A. It is a letter written by Mr. G. H. Hopper, District Supervisor of the --

249 Q. (Interrupting) Written to whom, sir? A. Mr. Harry L. Sparks.

Q. And this is the letter you referred to just before we went off the record, right? A. Yes.

Q. That letter is marked, there is a stamp there received, is there not, January 2, 1957, that appears on the reverse? A. That's correct.

MR. MELNICOFF: Mr. Examiner, I would like the record to show that in Respondent's Exhibit No. 2 I meant to include both the front and the reverse.

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: So the identification includes both sides.

BY MR. MELNICOFF:

Q. You were familiar with this letter, you say, before you conducted, before you went into Chapin, is that right? A. I believe so, yes.

Q. Was there any response made by Mr. Sparks to that letter? A. I have no copy of it.

Q. Do you know that one was received? A. I imagine there must have been because they went up there and did get the records.

Q. You do know that there was one received, right? A. I say there
250 must have been; I don't know.

MR. MELNICOFF: Mr. Examiner, and Lowell, too, I have here a copy of a letter which was written in reply to Respondent's Exhibit No. 2. Of course I only have the copy, the original is with the Packers and Stockyards Branch of the Department of Agriculture, I assume, or some other agency. I know that I can ask the government to produce the original. However at this time I should like to have this letter marked as Respondent's Exhibit No. 3 for identification. I would like to show it to counsel for the complainant and inquire as to whether or not we can arrive at some understanding that such a letter was sent and received as indicated.

PRESIDING OFFICER BAIN: It is so marked.

(Thereupon the document above referred to was marked for identification as Respondent's Exhibit No. 3.)

MR. MELNICOFF: May we go off the record while we make the inquiry?

PRESIDING OFFICER BAIN: Off the record.

(Discussion off the record.)

PRESIDING OFFICER BAIN: On the record.

MR. MELNICOFF: In an off-the-record conversation with counsel for the government it appears that, and it is quite understandably so, that they would desire to verify the receipt of this letter which has been marked for identification as Respondent's Exhibit No. 3. Under the circumstances
251 since it will not delay the proceedings, I will not press this matter any further at this time.

PRESIDING OFFICER BAIN: All right, sir.

MR. MELNICOFF: But, Mr. Miller, in the event that I should want to cross-examine this witness further with regard to this matter I assume you will not object to it even if it should be somewhat out of turn.

MR. MILLER: No, sir, I will make no objection except to relevancy.

MR. MELNICOFF: Oh, yes, I understand that.

MR. MILLER: And the witness will be available throughout the proceeding.

MR. MELNICOFF: I understand that. Thank you very much, sir.

BY MR. MELNICOFF:

Q. So that with that understanding, Mr. Sherman, we will proceed. So then you knew the existence of this letter of December 17 at the time that you began this inquiry? A. Yes, sir.

Q. And I have showed you that, the response, and we are going, we will go into that further at a later date? A. I didn't see it, no.

Q. Yes. Well, we will go into that. Now, then, assuming for the moment, and this is all assuming in my question, that Respondent's

252 Exhibit No. 2 was sent by Mr. Hopper and Respondent's Exhibit No. 3, both for identification, was the reply, with those two things behind us, then you went in to conduct your investigation, isn't that so? A. I went up there January 28.

Q. Now when you arrived there you found that Mr. McCoy had already been there? A. Yes, sir.

Q. He had been there for several days before? A. Three or four, I believe, yes, sir.

Q. Three or four days. At that time what particular books did you ask to be shown to you? A. I don't remember, again, I was there quite some time. I asked for a lot of records and got a lot of records, invoices, buy sheets, distribution book, I didn't get any scale tickets, and from those things that I obtained by asking I made my trade practice audit with Mr. McCoy's help.

Q. You went at this and you asked for these books and records at various times as your investigation dictated their need as you saw? A. That's correct.

Q. Would you tell us of whom you made these inquiries? Requests for books and so forth? A. As I said before, from several people there, Mr. Ischer, Mr. Hazelrigg, whoever I could contact that wasn't busy and

253 I could get ahold of them.

Q. Did you ask Mr. Dodd Bryant for any books and records? A. I probably did.

Q. But you don't recall specifically that you did, is that right? A. Not specifically.

Q. But you can't say that you did not? A. No. Normally I would say Mr. Ischer and Mr. Hazelrigg because they were usually around.

Q. During the course of your investigation in addition to asking these people for these books and records did you ever have any conversations with them? A. While I was there, yes.

Q. And how often did you have these conversations with them? Frequently? A. Well, now, I don't know what you mean, just a talk to pass the time of day? I don't know the people very well but they were friendly.

Q. And you were friendly too? A. I tried to be.

Q. Did you address Mr. Ischer by his first name, George, as you recall? A. I don't remember whether I did or not.

Q. Did he call you Mr. Sherman or Earl? A. I don't remember that.

254 Q. Did you ever talk to any of these people at a point or place outside the Chapin office? A. I talked to Mr. Ischer once outside.

Q. And when was that, if you can recall, as nearly as you can? A. I talked to him at a bowling alley.

Q. That was during the course of the examination, of the audit? A. Yes.

Q. And did you discuss the audit with him at that time? A. A little bit, yes.

Q. What did you tell him at that time? A. I told Mr. Ischer what I was finding.

Q. Did you explain to him in detail what you had been finding or just generally? A. I told him I had been finding some added weights.

Q. Did you express an opinion as to the propriety of the trade practice? A. I told him I didn't think it was very ethical.

Q. And that's --

MR. MILLER: Let me have that question and answer read back, please.

(Question and answer read.)

BY MR. MELNICOFF:

Q. Was this the only time that you met Mr. Ischer at a place
255 outside the office at Chapin, Illinois, that you can recall during the course of the audit? A. That's the only time I remember.

Q. Did you at any time ever tell him what you had found and what your opinion was of what you had found other than this one time? A. I might have up in the office.

Q. But you have no clear recollection of it? A. I have no clear recollection of it.

Q. It isn't as clear as the one time that you met him in the bowling alley? A. No.

Q. And of course that bowling alley meeting was a casual one, I take it? A. Yes, it was.

Q. It was after hours? A. He had told me he was going bowling, asked me if I'd come down and watch him. I told him I might.

Q. But it was not in connection with your official duties at all, was it? A. No.

Q. Just a casual meeting, I believe it was interesting to both of you? A. That's right.

Q. No other time did you discuss your findings with him? A. Unless
256 it was up in the office.

Q. But you have no clear recollection of those? A. I don't remember of talking with him any more about it.

Q. Now you can't say that you did, I take it? A. I don't believe I did too much.

Q. Very well. Can you say, you said you asked for, I think the expression is yours, a great many books and records during the course of your inquiry, that's correct, isn't it? A. Yes.

Q. And you received a great many books, not a great many books necessarily, but pieces of paper, invoices, buy sheets, everything that you asked for? A. That's correct.

Q. They were given to you without restraint, is that right? A. That's correct.

Q. You had complete cooperation of all the people involved? A. Yes, sir.

Q. And then of course you used these pieces of paper and analyzed them as your intelligence and training dictated they should be used, isn't that right? A. That is correct.

Q. And you came to certain conclusions and you made certain findings as to the propriety or impropriety of the facts as disclosed by

257 these papers and books and records that you saw? A. That is correct.

Q. Did you at any time ever explain to Mr. Ischer or Mr. Hazelrigg or Mr. Gibson or Mr. Bryant, if you did talk to him, what you found as a result of all the papers and books that they gave you? A. Mr. Ischer, as I said before, I told him.

Q. This one time in the bowling alley? A. Yes.

Q. But during the course of your investigation did you ever walk into him with a sheaf of papers, several papers -- I said sheaf because I generally carry a lot of papers around with me -- and say can you explain this transaction to me, did you ever do that? A. I probably asked him several times to explain figures and everything.

Q. And the explanation you got, did you ever tell him, either at that time or later on, was either in accord or in violation of any accepted practice? A. I don't believe so.

Q. You didn't do that? A. No, sir.

Q. When you looked at all those books and records for the period

indicated by Exhibit No. 1 that you brought into evidence here, did you
258 see any repeated practices, that is, did you find whereas you have
concluded that weight was added, was that done several times? A. Yes.

Q. And those several times that you saw were all, or in many instances if not all, reflected in the Order of Inquiry, isn't that true? A. Yes, they are reflected there. I believe there are some 45 in one paragraph.

Q. Yes. I'm not asking you to make a catalogue. Some of your findings were reflected in the Order of Inquiry? A. That's right.

Q. And did you find these all on one day? A. No, sir.

Q. That is by that, they were not all done in one day but you didn't find them on the same day of your investigation? A. No, sir.

Q. You were there for about six weeks, as you say, approximately? A. Approximately. Of course there was days when I didn't even come up there, I had other business in National Stockyards and had to go back.

Q. Sure, I understand, but they were found on different days of the investigation during the period that you were there? A. That is correct.

259 Q. And yet did you ever call these to the attention of anyone at
Midwest of your findings and that you were, in your judgment you found
that they were wrong? A. One particular one that appears in Mr.
Ischer's statement, yes.

Q. Did you tell him that it was wrong? A. Yes.

Q. Did you tell him that it should be stopped? A. Yes, sir.

Q. When did you tell him that? A. I believe that day, if I am not mistaken.

Q. Did you tell him why it was wrong? A. Yes, I told him that it was falsification.

Q. In what respect? A. Of adding weight.

Q. Did you know how that computation was arrived at? A. Well, he said they added weight. There was no supporting entry in the book to show where the weight had come from. I asked him about it specifically in the statement and in the statement he said that they had added weight to some of the hogs on the invoice.

Q. Now -- A. (Interrupting) And I explained to him that any invoice covering weight of hogs that was not true and correct weight of the hogs would be a false invoice.

260 Q. That was the sum of your explanation to him? A. I believe it was at that time.

Q. You had access to all the books and records concerning this transaction which is recited on, as having taken place on March 7, 1956? I am referring now to the transaction that is recited in your Exhibit No. 42. You had all those records, didn't you? A. I had Chapin's records, yes, sir.

Q. And they were all available to you, is that right? A. That's correct.

Q. And it is your conclusion now, as it was your conclusion then on February 1, 1957, that on the basis of all the books and records and accounts and papers available to you in your experience and understanding as an auditor that those books and records reflected an incorrect trade practice? A. Yes, sir.

Q. And that was your conclusion on February 1, 1957? A. Yes, sir.

Q. And it is your conclusion now, I take it? A. Yes, sir.

Q. I see. What computations did you make to ascertain whether that was a correct or incorrect trade practice or did you make any? A. Yes. The distribution book and the invoice together showed a difference from the buy weight and there was nothing to show that

261 there was any reweigh weights.

Q. What would you consider something as showing a reweigh weight? A. A scale ticket.

Q. Nothing else but a scale ticket? A. That's the best evidence I know of in a stockyard where they have scales and print scale tickets.

Q. That's true, but is there any other evidence that's maybe not as good as that but that is evidence of a weight? A. If I was buying hogs by weight I would accept nothing else.

Q. Well, unfortunately you weren't buying hogs this time, but as an auditor now is there any other record that may not be the best, as you say, but is there any other record to indicate what the weight of a hog is? A. Not that I know of. They had indicated in their distribution books that the hogs weighed so much when they bought them, they had a different weight on an invoice and nothing to support the weight on the invoice.

Q. And you have said that what was -- A. (Interrupting) The weight on the purchase was supported by a buy sheet from the various stations.

Q. And -- A. (Interrupting) Then again I had no scale tickets.

Q. You accepted the buy weight. A. I put down what I found.

262 Q. Did you accept that figure? A. What do you mean by accept? That was the figure they had in their books.

Q. All right. Well, you had to use that figure in order to arrive at what you call added weight, is that correct? A. That's correct.

Q. So you did accept it to that point? A. To that point.

Q. So there is an instance where you accepted a computation of a weight that wasn't based on a scale ticket, isn't that right? A. For the purpose of making that tabulation, yes, sir.

Q. That's right. So that although you said the best evidence of a weight is a scale ticket there is now something else which may not be as good but which is acceptable, is that right? A. For purposes, as I stated, of making that tabulation.

Q. All right, we will accept that. Now, at the other end did you find any evidence which in the absence of a scale ticket that you would accept for the purposes of this computation? A. Yes, sir, in some instances I put down on the tabulation their reweigh weights if they had them shown.

Q. So what you are concerned with now is the use of the word "reweigh", is that right? A. Not specifically.

263 Q. If something appeared in a book and was marked a reweigh weight you accepted that as a reweigh weight? A. As I said, those figures were not marked, I had to ask what they were and that was an explanation given to me.

Q. Well, when you asked and you were told that this is a reweigh weight you accepted that, is that right? A. I put it down in the tabulation as a reweigh weight.

Q. And you accepted that in making your calculation as to whether or not that transaction showed, as you called it, an added weight? A. That's correct, also made the statement as to whether it was added on top the reweigh or not.

Q. That's the second instance we have found now in the absence of a scale ticket we have found -- A. (Interrupting) For the purposes of this tabulation, yes. If animals are bought by weight a scale ticket is the only evidence of the weight.

Q. Well, if that's your belief I'm not one to shake it but at the moment we are not interested in that, at this particular instance. Therefore, then, in the absence of a weight which was catalogued or marked reweigh weight in some way or a weight that you were told was a reweigh weight you assumed, then, that a figure was not a reweigh weight, is that right? A. In the absence of being told?

264 Q. Yes. A. And in the absence of any figures, yes.

Q. Yes. But if there was no caption or anything in the book that said reweigh, the word reweigh there, and if no one told you that was a reweigh weight then it wasn't a reweigh weight as you understood it? A. You say if no one told me?

Q. Yes. A. I asked specifically for weights as they appeared on the books, distribution books, a weight or a figure that always appeared under the weight on the mock-up and if it was there it always appeared in the same place under the total weight on the mock-up of the invoices. What that figure was and they told me that was a reweigh figure.

Q. And you accepted that? A. And that was the only figure they ever told me was a reweigh figure.

Q. Did they ever tell you that any figure on there was not a reweigh figure? A. Any figure on that distribution book?

Q. Yes. A. Yes.

Q. Which figures were those? A. They told me the figures on the left side of the mock-ups of the invoices were off-truck weights appearing by the truckers' names.

265 Q. Did they ever tell you that the invoice weights were reweigh weights? A. Mr. Ischer made that point in his statement. He said that some of the hogs were reweighed while weight was added to others when making the invoices.

Q. You say Mr. Ischer made that statement. Isn't it true that you wrote out that statement for him? A. It is in my handwriting, yes, sir.

Q. And isn't it true that you, it is your wording? A. I would say it is mostly Mr. Ischer's wording. Maybe I would use a type of English that he wouldn't use, I don't know.

Q. What do you understand the phrase "added weight" to mean? A. The way it is said here, some of the hogs were reweighed while weight was added to others when making the invoice. It can only have one meaning.

Q. Well, what is that meaning? A. Weight was added when they made the invoice.

Q. By that do you mean it was added arbitrarily? A. That's what it says.

Q. Well, now -- A. (Interrupting) It says some of the hogs were reweighed.

266 Q. What did you mean there when you put that in there? A. Just what it says.

Q. Well -- A. This was Mr. Ischer's statement, Mr. Ischer is the one that swore to it and signed it.

Q. Now that statement was made up by you on February 1, 1957, is that right? A. That's right.

Q. And you had arrived there on January 28, 1957? A. That is correct.

Q. So it was within three or four days after the time you arrived you feel that you had a sufficient understanding of the operations and the bookkeeping and everything else to be able to arrive at a conclusion as to the, not only the way the books and records were kept. but as to what they reflected, is that true? A. Partially. I thought I had sufficient knowledge of them at that time to obtain a statement from Mr. Ischer, especially after I got his explanation on the day I got the statement of how they operated.

Q. Did you attempt to obtain a statement from Mr. Ischer at the time you concluded your investigation? A. A statement from him?

Q. Yes. A. No.

267 Q. You did not. From your experience in this field do you believe that hogs can gain weight? A. Can hogs gain weight?

Q. Yes. A. Certainly hogs can gain weight.

Q. And do they gain weight, as a matter of fact, in your experience? Q. Do hogs gain weight?

Q. Yes. A. Yes, they would have to gain weight in order to go from pigs to hogs.

Q. But I mean at the time they are purchased, let's say, in a situation similar to the operation that you investigated at the time they were sold could they gain weight? A. I don't imagine they could.

Q. Did you ever express the opinion that a hog could not gain weight as they were handled and the purchases sold by the place that you were investigating? A. Some of the points I was investigating they could not gain weight.

Q. You say they could not? A. And they didn't.

Q. And they didn't? A. That's correct.

Q. Did you ever make any examination or tests to determine that?

268 A. Yes, sir.

Q. When was that? A. In Springfield.

Q. Where? At Springfield you say? A. Yes.

Q. I asked you when. A. Now this test was from their records.

Q. Oh, that is you, you didn't run the test yourself, you just took their records? A. That's right.

Q. And do you remember what records you saw? A. Their purchases and their sales. I believe that's reflected in 1956 annual report from the Springfield stockyards.

Q. That is a posted yard? A. That's right.

Q. And you say you obtained that information from the annual report? A. I believe so, they did lose weight there. Again I asked Mr. -- well, of course that hasn't come in yet. I haven't testified to it, but I asked Mr. Harmes about reweighing up there and he stated that when he did reweigh he always lost weight.

Q. But you never yourself conducted any weight test to determine 269 whether they could gain or lose weight? A. I have actually weighed hogs coming into a stockyard and then inspected the scale tickets when they were weighed for sale, the same hogs, and it varied, some of them gained, some of them lost.

Q. Did you ever do that in any of the Midwest points? A. No.

Q. Are you aware of the fact that the hogs that came in to Midwest were fed? A. At all their points?

Q. Yes. A. I wouldn't know.

Q. Did you see them fed at any point? A. I think I saw them feeding some at Chapin.

Q. Well, did you see any feeding troughs and things of that sort? A. Yes.

Q. Did you see any feed in the store available for feeding? A. No, I did not.

Q. Do you know that they had any there? A. I think they did because I believe one of the men was feeding one day when I walked out through the --

Q. (Interrupting) Do you have any idea how much is spent annually by Midwest on feeding hogs? A. I think Midwest bought feed but I didn't
270 make a -- I knew they bought feed because I saw it.

Q. That didn't appear in any of the books that you looked at? A. I didn't go over the ledgers.

Q. During the time that you were conducting this investigation I take it you spent most of your time in that little room at the head of the stairs to the right that had been assigned to you folks, is that right? A. Most of the time.

Q. Other times you spent downstairs? A. Downstairs.

Q. And did you observe the purchase of hogs at any time? A. I believe I was there two or three times when farmers had hogs, were there collecting for their hogs.

Q. Did you observe the weighing of hogs as they were purchased? A. If I remember right, I believe I did see one or two transactions.

Q. In order that this record may not carry a contrary impression, you were never excluded from watching the weighing? A. Oh, no.

Q. It just happened that you had something else to do that you weren't there? A. That's right.

271 Q. But you were never told you can't watch the hogs be weighed? A. No; they let us walk in the yards any place we wanted to.

Q. They have a scale down there at Chapin, do they not? A. That's correct.

Q. I think you and Mr. McCoy actually measured it? A. It is a very small scale.

Q. Well, to me it is a big scale. Well, anyhow -- A. (Interrupting) It is --

Q. (Continuing) -- you testified to the measurements on it so we will not go into that again. Does the word Spinks balance mean anything as far as you are concerned? A. Spinks balancer?

Q. Yes. A. There is a Spinks indicator.

Q. Is this anything near what it might look like (indicating), roughly? Is that right? It is sort of a meter, isn't it, or a registering device? A. That would be the outline of the outside of it.

Q. Yes, sir. Well, what is on the inside of this thing as you see it visually? A. There is an arrow.

Q. And is that a movable arrow, I suppose? A. Yes, it swings back and forth.

272 Q. It can swing left and right, there is a certain swing to it, isn't that correct? A. That's right.

Q. Apparently we don't have rock and roll, we have swing in the stockyards.

MR. MELNICOFF: Mr. Examiner, I think we might eliminate that if it has gotten into the record.

BY MR. MELNICOFF:

Q. Is there any sort of a register up here on the top that will show you how far to the left or right this arrow is swinging? A. Directly in the center there is a target.

Q. Is that about right? A. The target area, the entire target area would represent one minimum graduation on the fractional poise. In other words, the entire black target area which is split in the center by a line to indicate the exact center of that target area, the entire area represents one minimum graduation of the fractional poise which is five pounds.

Q. I see. And so that, as I understand it now, please correct me if I am any way in error, that once a load is put on the scale platform the beams are adjusted until this arrow moves within the target area, is that right? A. Providing the scale was balanced before the load was put on, providing it was weighed properly, if the arrow comes to rest within the

273 black target area then you have a correct weight.

Q. I see. And then at that point when that arrow reaches that point, the one you have just described, the person who is conducting the weighing manipulates a lever or squeezes something and the weight is recorded at that moment, isn't that right? A. On the scale ticket in the slot.

Q. Now, these, you say, and these are, you said something about gradations. They are zero, five, ten, and so forth? A. That's on the fractional poise.

Q. Is there any scale which is in general use in the stockyard industry which has gradations other than five, ten, and so forth? A. Not that I know of.

Q. In short, the scales that you saw in Chapin, Illinois, were of the kind and have the equipment and recorded the gradations such as those that are generally in use throughout the stockyard industry, is that right? A. Yes.

Q. Posted yard or nonposted yard? A. Correct.

Q. So that if these scale tickets here that you produced this morning which showed that they ended in zero and five, that is the way you find every scale involved in this sort of practice. Assuming the load
274 weighed that much that's the way it would end. You wouldn't find anything in three or a two or a one? A. No.

Q. So the scales there were not unusual in that respect? A. Not unusual at all.

Q. As a matter of fact, they were the usual kind of scales? A. That is correct.

* * * * *

REDIRECT EXAMINATION

BY MR. MILLER:

* * * * *

275 Q. You were asked by Mr. Melnicoff whether or not the Order of Inquiry reflected all of your findings and I wasn't exactly sure what your answer was and that was the reason for my asking the question. A. No, it didn't reflect anything that did not pertain to a posted stockyard. I found, of course, a lot of other things as shown by the Respondent's Exhibit No. 1, Complainant's Exhibit No. 1.

Q. But does the Order of Inquiry include even all of the transactions which refer to posted stockyards? A. No, it doesn't include even all of

276 those.

Q. In response to a question by Mr. Melnicoff you stated, I believe, that you repeatedly asked for scale tickets in support of certain invoice weight figures, is that correct? A. That is correct.

Q. Now, with respect to transactions set forth in Complainant's Exhibit No. 2, Mr. Sherman, in addition to requesting scale tickets in support of the invoice figures, invoice weight figures in those transactions, did you also examine the distribution book of Midwest Order Buyers to determine if entries were made in such book showing reweigh weights? A. I did.

Q. And what did you find? A. I found no entries showing reweigh weights.

Q. Did you ask for other data concerning reweigh weights with respect to these transactions? A. I did.

Q. And what was the result of your inquiries? A. I received nothing, they had nothing there to show that there was any reweigh weights.

Q. With respect to the statement Mr. Ischer signed and with particular reference to the statement concerning added weights did Mr. Ischer make that statement to you orally? A. Yes, sir.

* * * * *

277 MR. MELNICOFF: Mr. Examiner, I just wonder at this moment, I omitted, I'm sorry, if you recall, I presented this Exhibit No. 2. I wondered if we might at this time stipulate that into evidence? This is the letter written by you people to Sparks. I don't have copies, and that is a copy itself. I know it is subject to all sorts of frailties and can be admitted only by stipulation, but I think it would be well to have it in the record at this point at this time from a chronological point of view.

MR. MILLER: It was my understanding it had already been admitted.

PRESIDING OFFICER BAIN: Not Respondent's Exhibit 2.

MR. MELNICOFF: I didn't move its admission, no. I think this should go in at this time.

PRESIDING OFFICER BAIN: Is there any objection?

MR. MILLER: Well, Mr. Sherman already stated this copy was received by the office at the National Stockyards. I have no objection.

PRESIDING OFFICER BAIN: It is admitted.

* * * * *

ROBERT G. McCOY

279 ### DIRECT EXAMINATION

BY MR. MILLER:

Q. Will you state your full name and address, please? A. Robert G. McCoy, 5708 Kroegermount Drive, Cincinnati 5.

Q. What is your occupation, Mr. McCoy? A. I am an auditor with the Packers and Stockyards Branch of the U. S. Department of Agriculture, stationed at Cincinnati in the Cincinnati office.

Q. You are now stationed in the Cincinnati office? A. That's right.

Q. How long have you been stationed in the Cincinnati office? A. I have been in the Cincinnati office about a year and a half.

280 Q. How long have you been an auditor for the Packers and Stockyards Branch, Mr. McCoy? A. I have been doing auditing work for the Department for about four and a half years.

Q. And where were you stationed prior to being stationed at Cincinnati? A. I was stationed at National Stockyards, Illinois.

Q. And were you stationed at National Stockyards, Illinois, during 1956? A. Yes, I was.

Q. And in 1957? A. Yes, I was.

Q. Mr. McCoy you have been handed documents which have been marked for identification as Complainant's Exhibit Nos. 9 through 18. I ask first of all that you examine Complainant's Exhibit No. 9 and state what it is, if you know. A. Complainant's Exhibit No. 9 is an invoice from Midwest Order Buyers to Hunter Packing Company, East St. Louis, Illinois, dated March 7, 1956, on 639 hogs, weighing 137,950 pounds, and sold to Hunter Packing Company by Midwest Order Buyers.

Q. Where did this invoice come from? A. This invoice came from the records of the Hunter Packing Company.

Q. And who obtained this invoice? A. I obtained this invoice from
281 their records.

Q. Will you describe your method of obtaining this invoice? A. I went to the Hunter plant with Mr. Sands and we talked to Mr. Applegate, the vice president, and asked to be given access to their purchase records on their purchase of hogs and he made those records available and then we withdrew certain transactions of which this is one.

Q. This is one of the invoices which you withdrew from the records of Hunter Packing Company? A. Yes, sir.

Q. I direct your attention to Complainant's Exhibit No. 10. Will you identify what that is and from what records they were obtained, if you know? A. Exhibit No. 10 consists of the scale tickets covering the 639 hogs shown in Exhibit 9 and these scale tickets were attached to the invoice, sold to Hunter Packing Company, and the tickets are on Midwest Order Buyers' scale tickets.

Q. Mr. McCoy, I direct your attention now to Complainant's No. 11, 13, 15, and 17, and ask you that you identify those exhibits, please. A. Complainant's Exhibits 11, 13, 15, and 17 are also invoices from Midwest Order Buyers to Hunter Packing Company, East St. Louis, Illinois, on hogs sold by Midwest Order Buyers to Hunter Packing Company.

282 Q. Did you obtain each of these invoices, Mr. McCoy, from the same place and in the same manner as you obtained the invoice which had been identified and marked as Complainant's Exhibit No. 9? A. Yes, I did.

Q. Directing your attention to Complainant's Exhibit No. 12, will you identify the documents covered by that exhibit. A. Exhibit No. 12 consists of the scale tickets from Midwest Order Buyers which were attached to the invoice which is shown as Complainant's Exhibit No. 11 on 662 hogs sold by Midwest Order Buyers to Hunter Packing Company.

Q. Will you identify Complainant's Exhibit No. 14. A. Complainant's Exhibit No. 14 is the scale tickets from Midwest Order Buyers on the hogs sold to Hunter Packing Company August 22, 1956, which were attached to the invoice to Hunter Packing Company.

Q. And that would be the invoice marked Complainant's Exhibit No. -- A. (Interrupting) That is the invoice marked Complainant's Exhibit No. 13.

Q. And will you identify Complainant's Exhibit No. 16? A. Complainant's Exhibit No. 16 consists of the scale tickets from Midwest Order Buyers on the hogs which were sold to Hunter Packing Company, August 29, 1956. These scale tickets were attached to the invoice which is dated, which is listed as Complainant's Exhibit No. 15.

283 Q. And will you identify Complainant's Exhibit No. 18, Mr. McCoy? A. Complainant's Exhibit No. 18 consists of the scale tickets from Midwest Order Buyers to Hunter Packing Company on the 869 hogs sold by Midwest Order Buyers to Hunter Packing Company, September 6, 1956, and these tickets were attached to the invoice on those 869 hogs and this invoice is shown as Complainant's Exhibit No. 17.

Q. Were all of these invoices, then, Mr. McCoy, and scale tickets obtained from the records of Hunter Packing Company? A. Yes, they were.

Q. After you obtained these invoices and scale tickets from the records of Hunter Packing Company what did you do with them? A. I took them back to the Packers and Stockyards office and turned them over to Mr. Sherman who is custodian of the records there.

MR. MILLER: May the Examiner, please, I offer into evidence Complainant's Exhibits Nos. 9 through 18.

PRESIDING OFFICER BAIN: Are there any questions or objections?

MR. MELNICOFF: I object to these exhibits on the ground as heretofore indicated, they are books and records of Midwest Order Buyers,
284 the respondents do not appear on them in any way. I have argued and presented this objection to the Examiner heretofore in an extended fashion. I see no reason, unless the Examiner desires me to, to state again what I have already said. Assuming that the Examiner has within his mind what my objection is, for those reasons and for those grounds I object to the receipt of these exhibits.

PRESIDING OFFICER BAIN: I don't think that objection is good. Are there any others that you have not stated?

MR. MELNICOFF: No, I have no others.

PRESIDING OFFICER BAIN: Those exhibits are admitted.

(Thereupon the documents heretofore marked as Exhibits Nos. 9 through 18, inclusive, were received in evidence.)

MR. MILLER: I will now identify Exhibits 23 through 31 which have been already marked through Mr. McCoy.

PRESIDING OFFICER BAIN: All right. Exhibits 23 through 31 have already been marked for identification.

BY MR. MILLER:

Q. Mr. McCoy, I have handed you documents which have been marked for identification as Complainant's Exhibits Nos. 23 through 31. I direct your attention first of all to Complainant's Exhibit No. 23 and I will ask you to examine it and state what it is, if you know. A. Complainant's Exhibit 23 is a Midwest Order Buyers' scale ticket with the

285 weight of 114,160 pounds imprinted on it.

Q. Do you know who printed that weight on that scale ticket? A. Yes, sir, I printed this weight on this scale ticket on the scale at Chapin, Illinois. On the Midwest Order Buyers' scale at Chapin, Illinois.

Q. And you printed that weight figure, then, on the scale of Midwest Order Buyers at Chapin, Illinois? A. That's correct.

Q. And what, if anything, did you write on the scale ticket at the time you printed the scale ticket? A. For purposes of identification I wrote on the back of the scale ticket, "Chapin, Illinois, February 20, '57" and my initials, R. G. M.

Q. Now, Mr. McCoy, I notice on that exhibit that there is a small carbon flap, at least we called it a carbon flap this morning, attached by a paper clip to the under side of that exhibit. Will you explain what that flap is? A. That is a small carbon flap which is attached to the left-hand side of the scale ticket on the front for the purpose of making a carbon print of the weight on the original copy or on the original ticket, the first ticket.

Q. Was that flap attached to the front of the scale ticket on the left-hand side at the time you printed the weight on that scale ticket?

286 A. Yes, the flap was.

Q. Now, Mr. McCoy, directing your attention to Complainant's Exhibits Nos. 24 through 31, I will ask you to examine them and identify each one of them if you will. A. Complainant's Exhibit 24 is a Midwest Order Buyers' scale ticket which is with the weight, two weights imprinted on it, 13,720 pounds and 13,720 pounds. This ticket was printed by me on the scale at Midwest Order Buyers' office in Chapin, Illinois. On the back of the ticket for identification I have written "Chapin, Illinois, February 21, 1957," my initials, R. G. M.

Q. Will you examine the rest of those documents, Mr. McCoy, Complainant's Exhibits 25 through 31, and state whether or not you printed each of those scale tickets upon the Midwest Order Buyers' scale at Chapin, Illinois. A. Do you want me to identify them individually?

Complainant's Exhibit 25 is also a scale ticket similar to the other tickets identified which I printed at the Midwest Order Buyers' scale at Chapin, Illinois, and it carries the weight of 13,340 pounds imprinted on the ticket. On the back of the ticket for identification I have "Chapin, Illinois, February 20, 1957," and my initials R.G.M.

Complainant's Exhibit 26 is also a Midwest Order Buyers' scale ticket with the weight 14,350 pounds imprinted twice on it which I printed

287 on the scale at the Midwest Order Buyers' station at Chapin, Illinois, and for identification purposes I have written on the back of the ticket, "Chapin, Illinois, February 21, 1957," and my initials R. G. M.

PRESIDING OFFICER BAIN: If these are all the same isn't it sufficient to say they are all that?

MR. MILLER: It certainly will be.

BY MR. MILLER:

Q. Can you state whether or not all of the scale tickets which you have were printed by you on the Midwest Order Buyers' scale at Chapin, Illinois? A. Yes.

Q. Were they all printed by you in the same manner as you described in connection with Complainant's Exhibit No. 23? A. Yes, they were.

Q. And do each of these scale tickets, Complainant's Exhibits Nos. 23 through 31, bear a date which you placed upon the scale ticket and your initials? A. Yes, they do.

Q. And was the carbon flap which is attached to each of these scale tickets attached on the front left-hand side of each scale ticket at the time you printed the weight on the scale ticket? A. Yes, it was.

Q. And after you printed these scale tickets what did you do with
288 them? A. I turned these tickets over to Mr. Sherman for safekeeping.

MR. MILLER: May the Examiner, please, I offer into evidence Complainant's Exhibits Nos. 23 through 31.

PRESIDING OFFICER BAIN: Are there any questions or objections?

MR. MELNICOFF: Yes, Mr. Examiner, the same objection that I made to the earlier exhibits in this series, I believe Exhibits 21 and 22. They are completely blank, I see no relevance to the proceeding. Of course there is nothing here that connects them with respondents. For the reasons indicated I object to the reception of these exhibits into evidence.

PRESIDING OFFICER BAIN: I think they are admissible on counsel's statement that they will be connected up.

MR. MELNICOFF: Thank you.

PRESIDING OFFICER BAIN: 23 through 31 are admitted.

(Thereupon the documents heretofore marked as Exhibits Nos. 23 through 31, inclusive, were received in evidence.)

MR. MILLER: These have already been marked for identification.

PRESIDING OFFICER BAIN: Is that 32 through 41?

MR. MILLER: That's correct.

BY MR. MILLER:

289 Q. Mr. McCoy, I have handed to you documents which have been previously marked for identification as Complainant's Exhibits Nos. 32

through 41. I direct your attention first of all to Complainant's Exhibit 32-A. I ask that you examine it and state what it is, if you know. A. Complainant's Exhibit 32-A is a Midwest Order Buyers' scale ticket with the weight imprinted on the ticket of 15,615 pounds. That weight is printed twice on the ticket.

Q. Did you print this scale ticket on the Midwest Order Buyers' scale at Chapin, Illinois? A. Yes, I did, and for identification I have written on the back of the ticket, "Chapin, Illinois, February 21, 1957," and my initials R. G. M.

Q. And the carbon flap which is attached to this exhibit immediately to the left of the scale ticket, was that carbon flap attached to the front left-hand side of the scale ticket at the time you printed the weight on the scale ticket? A. Yes, it was.

Q. Now, Mr. McCoy, I ask that you look at all the other documents covered by these exhibits and merely point out the documents or scale tickets which you printed on the scale, on the Midwest Order Buyers' scale at Chapin, Illinois, in the same manner as the scale ticket identified by Complainant's Exhibit 32-A. A. Complainant's Exhibit 32-B was printed by me in the same manner, Complainant's Exhibit 33-A was
290 printed by me in the same manner, also Complainant's Exhibit 33-B, 33-C, 33-D, 33-E, and Complainant's Exhibit 34-B, Complainant's Exhibit 34-C, Complainant's Exhibit 34-D, and Complainant's Exhibit 34-E. Also Complainant's Exhibit 35-A, 35-B, 35-C, 35-D, 35-E. Complainant's Exhibit 36-B, Complainant's Exhibit 37-B, Complainant's Exhibit 37-C, Complainant's Exhibit 38-A, 38-B, Complainant's Exhibit 39-B, 39-C, 39-D, Complainant's Exhibit 40-B, Complainant's Exhibit 40-C, Complainant's Exhibit 41-A, Complainant's Exhibit 41-B and that is all.

Q. Were all of these scale tickets which you have just identified, Mr. McCoy, printed by you on the Midwest Order Buyers' scale at Chapin, Illinois? A. Yes, they were.

Q. And does each of these scale tickets bear your initials? A. Yes, sir, they do.

Q. Did you place your initials on such scale tickets at the time you printed the weights on such scale tickets? A. I did.

Q. With respect to the so-called carbon flap which is attached on these exhibits to the left of the scale ticket, with respect to each scale ticket which you have identified, was the corresponding carbon flap attached to the scale ticket on the front left-hand side at the time you printed the scale ticket? A. Yes, it was.

291 Q. And what did you do with these scale tickets after you printed them? A. I turned these tickets over to Mr. Sherman for safekeeping.

Q. Were these scale tickets which you have just identified together with the scale tickets covered by Complainant's Exhibits Nos. 23 through 31 the only scale tickets which you printed at Chapin, Illinois? A. Yes, I believe so.

MR. MILLER: May the Examiner please, I offer into evidence Complainant's Exhibit Nos. 32 to 41.

PRESIDING OFFICER BAIN: Any objections or questions?

MR. MELNICOFF: Yes, Mr. Examiner. May I ask the purpose of these exhibits?

PRESIDING OFFICER BAIN: Would you state the purpose?

MR. MILLER: Well, the purpose is merely to show that the scale at Chapin, Illinois, was used to print scale tickets sent to certain packers.

* * * * *

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CROSS EXAMINATION

MR. MELNICOFF: May I ask further, Mr. Examiner, either of the witness or of counsel, whoever may wish to answer, why the double figures appear on certain exhibits such as 40-A and B and several others? Would you care to answer, Mr. McCoy?

THE WITNESS: Would you repeat that question?

BY MR. MELNICOFF:

Q. In 40-B, which I understand you sponsor in evidence here, the figures in the left-hand side there are double figures, 13685, 13685, do you see that? A. Yes.

Q. Why does that appear there? A. Exhibit 41-B?

Q. 40-B. A. Why do they appear?

Q. Yes. A. Well, the same weight has been printed twice on the ticket, the scale is constructed so that the weight can be printed twice on the same ticket.

Q. Is that unusual? A. No, I don't think that's unusual.

Q. Why was it printed twice here? A. Well, it was printed twice
293 to give a, just to show that the print each time was the same, as an example, two prints are better than one. That's the best reason I could give.

Q. Why was that done only on certain tickets and not on all of them? A. Well, I can't say why it was done on some and not all. Some have one print and some have two.

Q. Well, why did you make two prints on some and only one print on others? A. No real particular reason.

Q. Were you instructed to make two on some and only one on others? A. No.

Q. That was just your own idea? A. Yes, sir, to the best of my knowledge it was just my idea.

Q. It has no significance, is that your testimony? A. I don't -- no, I don't think it has any significance.

Q. So insofar as you are concerned that second figure could be stricken off of there, is that right? A. No, I don't think it should be stricken off, but if there had been just one figure there it would have been just as good.

Q. Pardon? A. If there had just been one imprint on there it would
294 have been just as good.

Q. Well, do you have any objection to striking one of them off? A. I don't think that one should be struck off, since they are on there I think they should remain.

Q. What purpose does the second one serve? A. Well, it serves the purpose of showing that the, of comparing the two that the print is the same on each time it is printed twice. It is the same print imprinted twice.

Q. What determined whether you would print two weights or one weight on these tickets? A. By simply moving the lever on the poise.

Q. Why did you decide to print two on one ticket and only one on others? A. I don't really know of any specific cases where I didn't print two on all of them or one on all of them. I just printed two on some and one on some.

Q. It has no significance, it has no purpose? A. Well, it serves the purpose for comparison since they are there.

Q. Have you concluded your answer? A. Yes, I concluded my answer.

* * * * *

295 BY MR. MELNICOFF:

Q. Now, on Exhibit No. 40, for example, there appears to be a handwritten figure just above Exhibit A, the handwritten figure being 14135 and just below Exhibit B on Exhibit 40 there is the figure handwritten 13720, do you see those? A. Yes.

Q. What are those figures, do you know? A. I don't know just what those figures are.

Q. Did you put those figures on there? A. No, I didn't.

Q. Beg pardon? A. No, I didn't put those figures on there.

Q. Do they have any significance in the exhibit? A. They have no significance to me.

* * * * *

296 BY MR. MELNICOFF:

Q. Mr. McCoy, where did you obtain the scale tickets that are reflected on these exhibits that you have introduced here? A. These
297 scale tickets were obtained at the scale at Midwest Order Buyers at Chapin, Illinois.

Q. Did you ask somebody for them? A. No, I didn't, I just printed the tickets.

Q. Pardon? A. No, I did not.

Q. You just walked up to the scale and took them? A. Yes, I just printed them, the tickets from the scale.

Q. What time of day or night was that done? A. Oh, it was done at various times. It was during the day, it was during the working hours of day, I don't know exactly what time. It might have been done at noon, sometime during the day.

Q. But you didn't ask anybody for them? A. No.

Q. Did you tell anybody that you were doing that? A. No, I believe not.

Q. Were you observed while that was going on? A. I don't know whether I was or not.

MR. MELNICOFF: Mr. Examiner, in addition to the ground already indicated that there is no connection with any respondent mentioned in this Order of Inquiry and since it appears to offer no probative evidence whatsoever, moreover, it appears that these were obtained in rather unusual circumstances, I object to the introduction of these exhibits

298 into evidence.

PRESIDING OFFICER BAIN: I don't see that the objection is good.

They are admitted.

(Thereupon the documents heretofore marked as Exhibits Nos. 32 through 41, inclusive, were received in evidence.)

MR. MILLER: Is it understood, Mr. Examiner, that all of the subparts of these exhibits are admitted?

PRESIDING OFFICER BAIN: Yes. What I have been looking at is a photostat. Now on the originals they are all stuck together, aren't they?

MR. MILLER: Yes, sir.

PRESIDING OFFICER BAIN: What do you call these things, not paper clips.

THE WITNESS: Staples.

PRESIDING OFFICER BAIN: They are stapled together, yes, sir, they are all admitted.

* * * * *

302 FRANCIS J. MAJOR

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. Will you state your name and address, please? A. Francis J. Major, 625 Lakeview Drive, Falls Church, Virginia.

Q. What is your occupation, Mr. Major? A. I am an examiner of questioned documents.

Q. By whom are you employed? A. By the Compliance and Investigation Division, Commodity Stabilization Service, United States Department of Agriculture.

Q. Do you make all examinations of questioned documents for your organization? A. I do.

MR. MELNICOFF: May I have just a moment? I don't want to deprive this record of the full story of Mr. Major's qualifications, but I here and now state I concede his qualifications as an expert on any field which he, Mr. Major, says he is an expert.

MR. MILLER: Thank you, Mr. Melnicoff. That will shorten my
303 examination of Mr. Major.

PRESIDING OFFICER BAIN: I might say that this witness testified as an expert in another proceeding over which I presided and I believe Mr. Melnicoff represented the respondent in that case.

MR. MELNICOFF: That's true, Mr. Examiner. I have no doubt about his qualifications as an expert.

BY MR. MILLER:

Q. When and where did you first commence your study of questioned documents? A. In 1934 with the Federal Bureau of Investigation, United States Department of Justice.

Q. Have you made a continuous study of questioned documents since that time? A. I have.

Q. As a result of your studies and experience, approximately how many documents would you say that you have examined? A. Conservatively speaking, thousands.

Q. Have you previously testified as a witness -- let me put it this way, Mr. Major. Have you previously testified as an expert on questioned documents in federal, state, and military courts throughout the country? A. I have.

Q. On many or few occasions? A. On many occasions.

304 Q. Have you lectured on the subject of questioned documents? A. I have.

Q. Where? A. Before training classes of our investigators, before training classes of the Federal Bureau of Investigation, and at the Institute of Criminology in Philadelphia.

Q. Mr. Major, I hand you documents which have been received in evidence as Complainant's Nos. 8, 10, 12, 14, 16, 18, and 20.

MR. MILLER: Mr. Examiner, may I say that whenever I refer to an exhibit by its number I mean to include all parts of such exhibit which are lettered.

PRESIDING OFFICER BAIN: Yes, sir.

BY MR. MILLER:

Q. These documents, Mr. Major, have been received into evidence and have been identified as scale tickets obtained from the records of Heil Packing Company and the Hunter Packing Company. I hand you these documents and ask that you examine them and state whether or not you have seen them before. A. I have.

Q. And when did you see them, Mr. Major? Or may I ask first of all, where? A. At Washington, D. C.

Q. And when was this? A. In May of 1957.

305 MR. MELNICOFF: Could we have those exhibit numbers again, please?

THE WITNESS: These are Complainant's Exhibits 8, 10, 12, 14, 16, 18, and 20.

BY MR. MILLER:

Q. How did you obtain these exhibits, Mr. Major, these documents? A. They were handed to me by, I believe it was Mr. Bowman of the Packers and Stockyards Division in Washington.

Q. Mr. Major, I hand you documents which have been received into evidence as Complainant's Exhibits 21 through 41. These exhibits have been identified as scale tickets printed upon the scale owned by Midwest Order Buyers at Chapin, Illinois. I ask that you examine these exhibits and state whether or not you have seen them before. A. I have.

Q. When did you see these, Mr. Major? A. In May of 1957.

Q. And where? A. At Washington, D. C.

Q. And how did you obtain these documents? A. They also were handed to me by Mr. Bowman of the Packers and Stockyards Division.

Q. Mr. Major, did you make a comparison of the printed impres-
306 sions of weight on Exhibits 8, 10, 12, 14, 16, 18, and 20, the
questioned documents, with the printed impressions of weights on exhibits of 21 through 41, the known standard? A. I did.

Q. Did you reach a conclusion? A. I did.

Q. What is that conclusion? A. I concluded that the weight impressions on the scale tickets designated as Complainant's Exhibits 8, 10, 12, 14, 16, 18, and 20 were produced by the same type face as was used in preparing Complainant's exhibits, that is, preparing the impressions on Complainant's Exhibits 21 through 41, which were submitted to me as known standards of weight impressions prepared on the scale at Chapin, Illinois.

Q. Did you cause photographic enlargements to be prepared of a representative number of scale tickets in question and of the known standards of weight impressions? A. I did.

Q. Are these the enlargements? A. They are.

Q. Will you step down, Mr. Major, and by use of these charts point out the reasons for your conclusions?

THE WITNESS: May I?

PRESIDING OFFICER BAIN: Yes, sir.

A. The photographic enlargements --

307 MR. MELNICOFF: Excuse me, Mr. Major.

Mr. Examiner, in order that I may not interrupt Mr. Major's testimony, but in order, too, that I may preserve my record, may I at this time enter an objection and have it understood to be a continuing objection to Mr. Major's testimony on the grounds: One, that it is improperly obtained evidence; secondly, that it concerns the evidence of an entity which is neither respondent in this proceeding nor subject to the Packers and Stockyards Act, and that the matters themselves were obtained in a manner as indicated by the witnesses which we believe is improper and I would almost say in a surreptitious way. Now on those grounds I move that Mr. Major's testimony be stricken.

PRESIDING OFFICER BAIN: Those are the objections you made yesterday.

MR. MELNICOFF: Yes.

PRESIDING OFFICER BAIN: Those objections are overruled and it may be understood that they apply to the entire testimony of this witness.

MR. MELNICOFF: Thank you very much.

A. The photographic enlargements which are headed "Questioned Exhibits" are enlargements of weight impressions on a representative number of the scale tickets that have been identified as Government's Exhibits 8, 10, 12, 14, 16, and 18, and 20. The photographic enlargements designated as "Known Exhibits" are weight impressions, photographic

308 enlargements rather of weight impressions that were prepared from the specimens designated or a representative number of the specimens designated as Complainant's Exhibits 21 through 41. Referring to the

enlargement of Government's Exhibit 8-A, and to the double cipher number in the figure 15100, I observed that the first cipher is thicker on the left side than on the right. The second cipher is thicker on the right side than on the left.

Referring now to a photographic enlargement of Government's Exhibit 27, where we have the impression 15100, we will note that the first cipher is thicker on the left side and the second cipher is thicker on the right side, just as was described in the imprint on the Government Exhibit 8-A. Referring to the enlargement of Government Exhibit 8-C, and to the figure 15350, with particular reference to the final cipher, here we will note that the cipher is thicker on the right side than on the left and there is a small break in the cipher at the foot of it, leaving a resulting white spot in the printed impression.

Referring to the photographic enlargement of Government Exhibit 26, and to the same 50 combination as it appears on the figure 14350, the final cipher is again thicker on the left than it is on the right and a very notable break appears at the bottom of the cipher accounting for the white spot which appears in the resulting carbon impression of that character.

309 Referring again to the enlargement of Government's Exhibit 8-C, and to the figure "5" in the numerals 15120, we observe a white spot near the end of the horizontal stroke of the "5".

Referring now to the photographic enlargement of Government Exhibit 27 and to the impression of 15100, we note that the 5 has a definite break at the point where the resulting white spot appears in the horizontal stroke of that character. Referring to the same numerals, 15120 and to the figure 2 we notice a white spot in the impression at the top of the 2 on government Exhibit 8-C. Referring to the photographic enlargement of Government Exhibit 24, and to the imprinted impressions of the numerals 13720 we note that the figure 2 is thin to the point of breaking, resulting in that white spot at the top of the 2 character. Referring to the cipher that follows the 2 in Government Exhibit 8-C, we note that it is heavier on the right than on the left and the same characteristic is present in the cipher of the 20 combination of the figure 13720, in the enlargement of Government 24.

Referring to the enlargement of Government Exhibit 8-E and the figures 14900, the same characteristics that I have just described in the double 0 combination are present, namely, the first cipher being heavier on the left and the second cipher being heavier on the right. Also in the imprinted impressions of 15120 on the same ticket we have the same characteristics as I have just described with respect to the 20

310 combination.

Referring to the photographic enlargement of Government Exhibit 10-C, and to the numerals 15350 we have the same characteristic defects in the cipher following the 0 as I have just described, namely, the break at the bottom of the cipher and the thicker stroke at the right. And referring now to the numeral 15120 on the same ticket we have the same characteristic defects in the 20 combination as I have just described.

Referring to the photographic enlargement of Government Exhibit 10-E and to the numeral 14700 and 14720, the same characteristic defects as just described are present in the double 0 combination and the 20 combination. Referring to the enlargement of Government Exhibit 12-C and to the imprinted impression 14180 we observe that the figure 8 is heavier on the left than on the right. Referring to the photographic enlargement of Government Exhibit 28 and to the imprinted impression 14080 we note that the 8 of the 80 combination is heavier on the left than on the right.

Referring to the same -- rather -- correction -- referring to the photographic enlargement of Government Exhibit 12-C and to the imprinted impression of the weight 14420 we find the same characteristic defects with respect to the 20 combination as previously described.

Referring to photographic enlargement of Government Exhibit 12-E and to the imprinted weight impression of 14620 we find the same

311 characteristic defects as previously described with respect to

the 20 combination. And referring to the impression immediately beneath it, 14200, we find the same characteristic defects with respect to the double 0 combination as previously described.

Referring to the photographic enlargement of Government Exhibit 14-A and to the weight impression 3535, the last 5 is abruptly terminated, indicating a possible break. It does not sweep back as far as does the first 5.

Referring now to the photographic enlargement of Government Exhibit 22 on which the combination 35 appears in the weight 14135 we note the same abrupt ending of the 5 character as just described.

MR. MELNICOFF: To what exhibit did you just refer, Mr. Major, please?

THE WITNESS: I just referred to the photographic enlargement of Government Exhibit 22.

A. (Continuing) Referring again to the enlargement of Government Exhibit 14-A and to the weight impression 6900, the same characteristics with respect to the double 0 combination, namely, heavier on the left part of the first cipher, heavier on the right part of the second cipher, are present.

Referring to the photographic enlargement of Government Exhibit 14-D and to the weight impression 14720, the same defects in characteristics of the 20 combination as previously described are present. Referring to the impression immediately beneath it, namely, 14700, the same characteristics with respect to the double 0 combination are present as just described. 312

Referring to the photographic enlargement of Government Exhibit 14-E and to the weight impression 13940, with particular reference to the 4, the finishing horizontal stroke ends about at the vertical down stroke rather than being extended through it as the notice, for example, in the enlargement of the 4 on Government Exhibit 8-E.

Referring now to the photographic enlargement of Government Exhibit 25 and to the 40 combination in the weight impression 13340 we observe that the 4 appears to be terminated just a little beyond the vertical down stroke and in exactly the same manner as was described on the questioned exhibit.

Referring to the enlargement of Government Exhibit 14-E and to the weight impression 14050, with particular reference to the 50 combination we find the defective break at the bottom of the 0 as previously described.

Referring to the photographic enlargement of Government Exhibit 13-D and to the weight impression 13735 --

BY MR. MILLER:

Q. Is that 13-D? A. Thank you, 16-D.

Repeating, referring to the photographic enlargement of Government's Exhibit 16-D and to the weight impression 13735, with particular reference to the 5 of the figure 35 we note the rather abrupt termination, that is not complete final swing of the final stroke of the 5 as previously mentioned. 313

Referring to the weight impression immediately beneath that just described on Government Exhibit 16-D, namely, the impression of 14200 with particular reference to the 4, we find what appears to be a break in the impression of the 4 midway of the final horizontal cross stroke.

Referring now to the enlargement of Government Exhibit 31 and to the impression 14220, with particular reference to the 4, we find at the same point just mentioned a definite defective break in the horizontal stroke of the 4 resulting in the white spot just mentioned.

Referring to the double 0 combination of the impression 14200 on Government Exhibit 16-D, the same characteristics in the double 0 combination are present as were previously described.

Referring to the photographic enlargement of Government Exhibit 16-E and to the weight impression 13790 we find a definite defect at the bottom of the 9 resulting in a broken or crooked finishing stroke.

Referring to the photographic enlargement of Government 30 and to the weight impression 13890 with particular reference to the 9, the

defect at the bottom of the 9 just described is clearly apparent. As to the
314 0 that follows the 9 it is heavier on the right than on the left and that same characteristic is present in the 0 that follows the 9 on the Government Exhibit 16-E. With respect to the weight impression 13320 on Government Exhibit 16-E we note that the first 3 is wider than the second 3.

Referring to the photographic enlargement of Government Exhibit 25 and to the impression 13340 we note that the first 3 is wider than the second 3.

Referring to Government Exhibit 16-E and to the 2, 0 combination following the figures 133 the same characteristics as previously described with respect to the 2, 0 combination are present.

Referring to the photographic enlargement of Government Exhibit 16-G, and to the weight impression 12890 we find the same characteristics, namely, the broken 9 at the bottom and the thicker cipher on the right as previously described concerning that combination. Referring to the weight impression 13110 immediately beneath we find that the cipher is thin at the top and that the 1 thickens at the top.

Referring to the photographic enlargement of Government Exhibit 21 and to the weight impression 12910 with particular reference to the 1,0 combination the same characteristics mentioned are present in that 1, 0 combination.

Referring to the photographic enlargement of Government Exhibit
315 18-B and to the weight impression 14250 we find that the 1 is bent at the top. The 4 has the defective break in the horizontal cross rod. The cipher has the break at the bottom.

Referring to the photographic enlargement of Government Exhibit 31 with reference to the 142 portion of the impress 14220 we find that the 1 is bent at the top and that the defective break in the cross stroke of the 4 is present. With respect to the 5, 0 combination we find that the same characteristics just mentioned when we observed that 5, 0 combination in the enlargement of Government Exhibit 26.

Referring to the weight impression 13350 on the enlargement of Government Exhibit 18-B we find again that the first 3 of the 133 combination is wider than the second, that the defective break is present at the bottom of the cipher.

Referring to the photographic enlargement of Government Exhibit 18-C and to the 50 combination in the weight impression 13150 we find the defective break present at the bottom of the cipher. With respect to the weight impression 14040 immediately beneath the weight just described we find the 4 of the final 40 combination terminated at the vertical down stroke and differing of course in the length of that stroke from the 4 preceding it in the 140 combination. Referring to the cipher in the 140 combination we note that it tends to be heavier at the top and bottom than on the sides.

316 Referring now to the photographic enlargement of Government Exhibit 28 and to the 140 combination we find the 0 heavier at the top and bottom than on the sides. And the same characteristic defects mentioned in the final 40 combination are present in the enlargement of the 40 combination as it appears in the impression 13340 on Government Exhibit 25.

Referring to the photographic enlargement of Government Exhibit 18-D and to the weight impression 12220 we find the same characteristics in the final 20 combination as previously described. With respect to the weight impression 14275 we find the same defects previously mentioned with respect to the 142 combination.

Referring to the photographic enlargement of Government Exhibit 20-A and to the weight impression 14300, with particular reference to the double 0 combination, the same characteristics mentioned, namely, the thicker stroke on the left of the first cipher and on the right of the second cipher are present. We respect to the weight immediately beneath 14340, the same characteristics described with respect to these combinations of 143 and 40 are present.

Referring to the photographic enlargement of Government Exhibit 20-C and to the weight impression 14790, with particular reference to the 90 combination we find the defective foot of the 9 previously mentioned. And we find that the cipher that follows the 9 is heavier on the right, as previously described. With respect to the weight impression 8800 and
317 to the 00 combination of that figure we find the same characteristics that I described, namely, the thicker part of the left of the first cipher and on the right of the second are also present.

I also noted that in this particular impressions, in these impressions we find what appears to be the top of the impressions to follow just underneath the last two ciphers each time indicating perhaps that the poise might have been slightly out of adjustment so that it results in what appears to be strokes of the number following the last two digits are present in each instance. This characteristic is present in all of the impressions, not all, but in most, yes, I'd say all of the impressions to some degree in both the questioned exhibits and the known exhibits. Based on the occurrence of these defects in combination with each other in both the weight impressions on Government's Exhibits 8, 10, 12, 14, 16, and 18, and 20, and Government's Exhibit 21 through 41 I reached the definite conclusion that the same type face prepared the impressions on all exhibits.

MR. MILLER: I have no further questions.

PRESIDING OFFICER BAIN: Cross.

CROSS-EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Major, you and I have known each other a long while,
318 haven't we? A. Yes.

Q. You know of course I have a high regard for you, both personally and professionally, you know that, too, do you not? A. Thank you.

Q. But this morning we each have a job of work to do so I suppose we best get on with it.

Now, Mr. Major, are you familiar with the machine that was used to make these impressions, both the comparison exhibit and the so-called original exhibit? A. That particular machine I have never seen, sir.

Q. Do you know what the machine is for? A. Yes, sir.

Q. But you never saw it? A. That's right, sir.

Q. Are you familiar with the mechanism of operation? A. To a limited extent, sir. I might explain it in this manner, that before reaching this conclusion I made it a point to examine a similar machine at the Packers and Stockyards Division in Washington, D. C., so as to determine how these weight impressions were actually placed on the tickets. In other words, I wanted to be certain that the final two-letter combinations were caused by type face on one bar operated independently from the bar on which the type face for the characters that preceded the final two appeared. In other words, the same principles that apply to
319 an identification of typewriting to a limited extent apply to this except that each time we see the figure zero, for example, in any two-letter combination we are dealing with an entirely different zero cipher which is not true, of course, on the typewriter, and the same applies with respect to any three-letter combination such as a 129. There the 2 might, not only might, but is a different type face than a 2 which would appear in another three-letter combination, so that in making my analysis I considered that the defect mentioned must appear in either the final two-letter combination or the preceding three-letter or less combination, yes, sir.

Q. Now, this machine that you examined in Washington, you say that was examined in Washington itself? A. Yes.

Q. Now, was that a full-sized model of the machine, comparable in size to that that is involved here? A. That I don't know, sir.

Q. Well, was it a small machine or did it have a weighing platform attached to it, the one that you examined? A. The one that I examined as I recall, Mr. Melnicoff, I won't swear to it that it had a weighing platform because my interest was primarily concerned not with the mechanics of the machine so much as the mechanics of how these impressions would appear on a piece of paper. That was to what my examination was limited.

320 Q. Therefore to the extent, then, that any variations, if there would be such, that would result from the fact that that load comparable to, in excess of 13,000 pounds and in some cases in excess of 14,000 pounds or 15,000 pounds, I see one there, 15,100, to the extent that such a load on the weighing platform would affect the printing mechanism you didn't make any examination of that? A. No, sir, I was concerned primarily with the imprinted impressions.

Q. Now, do you know to what extent the machine you examined in Washington is comparable, is similar to the machine that's apparently involved here? A. I can say that the imprinted impressions were definitely different.

Q. But was it the same type of machine, do you know? A. I'm not certain because I was not concerned with the make of this particular machine. Again my interests lie only in the imprinted character and defects in those characters, whether it be printed by a Fairbanks and Morse or some other type of scale.

Q. But it is true, is it not, Mr. Major, that you did rely to some extent on your personal observations of the test made in Washington on the machine you just described? A. No, sir, my analysis and my identification here is based entirely on defects in the type face as

321 they appear in the resulting printed impressions. Now, insofar as the machine that I examined at Washington, that was only for the purpose of determining how impressions are made on a similar type of machine. My conclusion was in no way affected by that examination.

Q. But you did conduct this examination that you talked about in Washington? A. Yes.

Q. And in your judgment as an expert you felt it was desirable and necessary to make such an examination? A. I would say desirable, sir.

Q. And it was helpful to you? A. It was helpful from an educational standpoint of ascertaining that these impressions, as I previously mentioned, are printed in either three-letter digits, one with three-letter digits, the first three characters, and the second two digits appear as a unit. Let me again emphasize my conclusion and identification is based on defects of the type face.

Q. But your examination in Washington did contribute to your knowledge and was assistance to you in testifying here this morning? A. Yes, sir.

Q. Now, you have told me you have never seen this machine that's involved here? A. That's correct, sir.

322 Q. Do you know of what metal or if it is metal, this type face is concerned, is made up of? A. No, sir.

Q. I notice that in this exhibit on the left, in your enlarged exhibit on the left, let's take No. 21, for example, and compare it with 16-D, which is on the same line across. In this one, by this one I mean Exhibit 21, the reproduction here is different from the way it appears on Government's Exhibit 16-D. Will you explain that, please? A. Those two cannot be compared.

Q. I mean just insofar as the reproduction appears. This one appears, by this one, 21, appears to be an indentation in the paper whereas in 16-D it appears to be something on the paper. Now, that's a description as I see it. A. Yes.

Q. I am only attempting to convey an inquiry to you by that statement, is it clear? A. Yes, sir.

Q. Very well. A. The imprint of Government Exhibit 21 is a photographic enlargement of the impression in the paper photograph that received the actual imprint of the type face with no carbon surface intervening. On the photographic enlargement immediately below and also identified as Government Exhibit 21 we have the resulting carbon impression of the same characters to which you have just referred, just as those

323 carbon impressions appeared in the questioned exhibits. Now the purpose of photographing and examining the indented impressions caused by the type face with no intervening carbon paper was to make definitely

certain that the little white spaces that I have referred to were actually defects in type face and were not caused by dirt or some foreign matter adhering to the type face so that when I have referred to these idented impressions on the specimens imprinted directly from the type face without carbon intervening there can be no doubt, for example, referring to Government Exhibit 30, that the 9 is definitely broken at the point mentioned and it is not a result of any foreign substance.

Q. But the truth is, Mr. Major, is it not, that in your testimony thus far in comparing, for example, Government's Exhibit 21 with Government's Exhibit 16-D, you have been comparing unlike reproductions to the extent that you have just now mentioned, isn't that true? A. No, that is not true.

Q. Well, perhaps my question isn't clear. In the exhibits, your enlarged exhibits on this left sheet, Exhibit 21, 24 and so forth, you have been talking about impressions made in the paper, is that right? A. That's correct, sir.

Q. And in Exhibits No. 16-D, et cetera, you have been comparing
324 those exhibits to Exhibit 21 with impressions which appear on the paper, is that right or rather reflections which appear on the paper. So to that extent they are unlike, is that right? A. I can't answer that just yes or no, Mr. Melnicoff. I want to explain, if I may.

Q. Yes, surely. A. The impressions that I have referred to on Government's Exhibits 21, 24 and et cetera, namely, known exhibits, I have considered not just the indented impressions caused by the type face without intervening carbon, but I have also considered the resulting carbon impressions.

Q. Excuse me, Mr. Major. I am not disputing that, but I am saying up to this time your testimony was confined to this first sheet and comparing these two first sheets. Now you have lifted a page and showed me something else underneath, but at the moment up to this time on your direct examination you did compare these two top sheets, is that right? A. That is correct, sir.

Q. And the impressions as I have described them appear on those papers as I have described them? A. That's correct, sir.

Q. Now, as I understand it, Mr. Major, you of course had nothing to do with the preparation of Government's Exhibits 16-D, et cetera, isn't that true? A. Are you referring to the photographic or the original

325 document?

Q. The original document, of course. A. 16-D is one of the questioned documents.

Q. You had nothing to do with the preparation of it? A. No, sir.

Q. And you don't know anything about any of the written or printed matter that appears on there, you took it as given to you? A. That is correct.

Q. You do not know the circumstances under which that document was prepared? A. No, sir.

Q. And you do not know by whom it was prepared? A. No, sir.

Q. And except for what it may appear as a date on the questioned document yourself you don't know when it was prepared? A. That is correct, sir.

Q. Now let me ask you that with regard to the so-called comparison documents, Exhibits 21, 24, 28, et cetera. Do you know by whom those were taken? A. Only by having been advised.

Q. From only being advised, but you weren't there when they were taken? A. No, sir.

Q. You don't know the circumstances under which they were

326 taken? A. No, sir.

Q. And except for what you have been told you don't know when they were taken? A. That is correct, sir.

Q. And all you know about it is that you were given these documents and asked to make a comparison? A. Yes, sir.

Q. That's the usual procedure to follow in a matter of this kind? A. Yes, sir.

Q. And would there be any distinction, would the type faces be affected by the fact that there was a load of this weight, by this weight I mean take any one that you have indicated there on the scale or if there was no such load on the scale? A. The defects would not be affected, no, sir.

Q. Would the fact that, let's say, 66 animals or -- strike that -- 62 animals and 64, 126 animals, weighing in the neighborhood of 82,000 pounds were on a scale, approximately eight-by-thirteen, would that affect the printing? A. It could have no possible bearing to the small breaks in the type face that I have described.

Q. Do you know how this printing mechanism actually works, that is, how the impression is made? A. Yes, sir.

327 Q. Would you please describe that for us? A. Based on, of course, my observation of a scale and what I was told about the scale on which these were made, as I say, I didn't see the scale itself.

Q. That's true. A. My understanding is that the main beam containing the digits that precede the final two and the poise which contain the final two digits when adjusted to the weight on the scale they fall in and adjust a position with each other, the ticket is inserted and stamped and the resulting impression appears. That's the extent of my knowledge.

Q. But you didn't make any of these impressions your own self, did you? A. No, sir.

Q. And to what extent, if any, are you prepared to say as a matter of fact, that the characteristics of the operator would affect the figure impressions? A. I am prepared to state that the operation of the operator would have no effect on the broken letters or defects based on the examination of the indentions without carbon intervening.

Q. In so far, for example, you mentioned something about a typewriter in your direct examination. It is true, is it not, that the characteristics of a person operating a typewriter, that is, his way of doing it, would be reflected to some extent on the letters that appear

328 on the printed surface? A. I would say that they would be

reflected to a greater extent in connection with a typewriter than with what we have here.

Q. You say to a greater extent. A. Yes, sir.

Q. Now that implies that a comparison of degree. Would you indicate more clearly, if you can, the degree? A. Well, as far as the defects that I have described in my testimony here the characteristics of the operator would have absolutely no effect on these resulting defects broken letters that I have mentioned.

Q. What about the other possible defects? A. Everything that I have referred to, sir, here, has been a defective character either in the shape and the actual thickness of the character itself or in an actual defect or a break in the character and there, as you can see, there could be no possible human factor involved.

Q. Of course, you are familiar with the printing mechanism, the way by which the operator, what levers he may manipulate or buttons he may push to activate the printing mechanism, you are not familiar with that at all? A. Only to the extent that I mentioned.

Q. So if that, what I have just described, would have any effect on the printing resulting, printing, then of course to that extent the

329 operator wouldn't have some control over the appearance, if that's true I say. A. I can see where the operator would have no control over the defects that I have mentioned in my testimony.

Q. But, of course, that is, you have very candidly, frankly said you are not familiar with the printing mechanism, so to the extent that there may be some difference stemming from that your answer would have to be qualified? A. I am familiar with it to the extent as mentioned, namely, that the ticket is inserted and receives the weight impression. Beyond that I cannot see how any other factor is going to affect a broken letter or a letter that is thicker in one part than another.

Q. But by that you mean it is just beyond your knowledge at this moment? A. No, I don't mean that.

Q. Would you tell us again what you do mean? A. I mean that these defects, the thickness of a character at one point as compared to another and as definitely ascertained from an examination of the indented impressions are a physical characteristic of that type face regardless of the manner in which the machine might be operated or who might operate it.

Q. That would refer to thickness and to any breaks? A. And to broken letters, yes, sir.

Q. Would it apply to anything else? A. That is what my conclusion
330 and my identification is based upon.

Q. But it would not apply to anything else other than thickness or break in letters? A. It would apply of course naturally to the design, the shape, the size of the letter, any physical characteristic of the type face.

Q Now, have you determined, you said that -- strike that.

You have said that there are certain well defined breaks, I think was your expression? A. Yes, sir.

Q. In certain of those figures? A. That is correct, sir.

Q. Have you ascertained the cause of those breaks? A. Yes, sir.

Q. What was the cause? A. The cause were defects in the type face as definitely ascertained from the clear-cut indented impressions that were prepared on the slips through which no carbon intervened and that is why I refer to the top sheet on which the indented impressions alone appeared rather than referring to the carbon, resulting carbon impressions from the same imprint of which I also have a photographic enlargement and to which you have referred as the photographic enlargement immediately beneath it.

Q. Sure. A. But these indented impressions are the clearest
331 cut impressions. They might be likened to what we call a carbon impression on a typewriter where the clearest cut and the clearest analysis of the type face can best be ascertained by removing the ribbon itself and permitting the type face to strike the paper through only a sheet of carbon paper. Here we have even an improvement upon that,

where the carbon paper itself is removed and the paper received the indented impression from the type face with nothing intervening.

Q. We will come back to that in just a moment, but I want to come back to my original question. You say in one of these letters there is what you call a definite break, is that true? A. Yes, sir.

Q. Will you just point to one, any one of those? A. Yes, sir, referring to the figure 9 in Government Exhibit 30, the combination 3890, and to the end of the 9 you will note a definite break in the finishing stroke.

Q. Now, is that definitely a break caused by a defect in the type or is that the way the type was originally made, do you know? A. It would have to be a defect either in the type, whether it was from original preparation or not I do not know, but it is a defect in that it is a departure from the normal design of that character as it appears in other type face.

Q. Have you examined any other machines -- strike that.

332 Have you examined any specimens from any other machine other than the one that was given you here? A. Yes, sir.

Q. Which machines have you examined? A. I examined imprinted impressions prepared on weight scales at Peoria, Bushnell, Springfield, and Quincy, Illinois.

Q. And when were they examined? A. They were examined. some about the time that this examination was going on and some subsequent thereto.

Q. And were those examinations made in connection with your testimony here this morning? A. Yes, sir.

Q. I assume that you made some notes or memorandum there, did you not? A. It wasn't necessary. They were obviously different.

Q. Well, you concluded they were obviously different but do you have any, did you make any enlargements of those? A. No, sir.

Q. You depended upon your visual examination? A. Yes, sir.

Q. And you have no notes or memoranda or working papers concerning that? A. No, sir.

Q. Do you have them in your office anywhere or you just don't have them in here now? A. No, sir, they were eliminated because, as I stated, they were different either in shape, in size of letter or they
333 were different in that the defects that I have described were not present and I was asked to determine which scale or impressions from the scale were responsible for the impressions in the exhibits identified as Complainant's Exhibits 8, 10, 12, 14, 16, 18, and 20.

Q. Well, then, you didn't examine any other or had before you any other impressions made by a machine similar or identical with the one on which these exhibits were prepared? A. I had before me specimens prepared on other machines.

Q. But you don't know whether they were similar or alike or made by the same person that made this one, is that right? A. No, sir, but the type face was different.

Q. The type face was different. Can you tell us now that if we were to examine another machine made by the same company, whoever it may be, that made the machine upon which Government Exhibit 21 was made, for example, that we would find the same characteristics there? A. You would find different characteristics there.

Q. But you don't know, do you? A. I make the statement because what I have described as defective characters are defects in type face which differ from similar characters on this same machine.

Q. But as far as you know, the number 9 on 50 machines made by
334 this same company may reflect that same characteristic? A. I would have to see the specimens from the 50 machines to be positive.

Q. But you haven't seen those specimens? A. No, sir.

Q. Very well. Now, let me call your attention, if I may, to Exhibit 32-D.

MR. MELNICOFF: Do you have that, Mr. Examiner, I don't think it is on the board.

Well, here I have my copy of 32-D. You can look at it together if it is desirable.

BY MR. MELNICOFF:

Q. Do you notice that on the left flap, and I assume that on the little flap there the figure 3 appears? A. Yes, sir.

Q. That's where this impression appears in the paper as I have described it? A. Not exactly where the written figures appear, no, sir.

Q. It is to the left? A. To the left.

Q. What is the significance of that letter 3, do you know? A. I don't know, sir.

Q. Did you take it into account or consideration in making your analysis? A. No, sir.

335 Q. To the right of this flap there is a figure 500, is it? A. Yes, sir.

Q. You see that's an imprinted figure 500, is it not? A. Yes, sir.

Q. And then there is a written figure 3? A. Yes, sir.

Q. And then there is some other writing to the right, you see it, do you not? A. Yes, sir.

Q. Do you know what that writing is there? A. No, sir.

Q. Did you take it into account and consideration in arriving at your analysis? A. No, sir.

Q. Would the fact that that exhibit, that's 32-D, was not -- strike that.

If it were a fact that Exhibit 32-D was not prepared on February 21, 1957, would that enter into your, would that be any concern to you in your examination? A. No, sir.

Q. Did you take into account the dates on the back of these various exhibits when they were said to have been prepared? A. No, sir.

336 Q. Would the time in which the comparison exhibits, that's the proper name for them, is that true? A. Yes.

Q. At the time these exhibits were prepared as compared to the time that the alleged questioned exhibits were prepared, would those two times have any concern to you? A. In my particular examination, no, sir, because the defects were present. I can imagine that if a machine were adjusted in the intervening time and I found differences, that I was unable to effect an identification it might well have a bearing, but here the defects that I have described were actually present and my conclusion and examination was based entirely on the imprinted impressions themselves rather than the operator, the machine, or the intervening time.

Q. And if those factors, in fact, would have anything to do with the resulting reproductions or impressions and therefore a conclusion could be drawn therefrom, to that extent your conclusion could either be changed or it could be challenged? A. It does not have to be changed in this case, because the characteristic as described are definitely present.

Q. I see. Well, we are not going to agree on that, Mr. Major, so we won't pursue it any further.

I notice here that in the so-called comparison exhibits they are in
337 each instance a series of five digits, isn't that true ? A. Not in each instance, no, sir. There are some, I believe -- are you referring now to the known or the questioned?

Q. The known. All these I see are five digits, are they not? A. Yes, sir, that's correct.

Q. And then on the right, that is, to the right of your exhibit here, what do you call it, the questioned exhibits? A. The questioned exhibits, yes, sir.

Q. They also contain five digits, isn't that true? A. There are some exceptions. For example, the 8800.

Q. Yes, I see, but with that one exception I think they were all five numbers, isn't that right, at least on the top sheet there? A. On the top sheet, that's correct, sir.

Q. Now, can you, is there any exact sequence in the known standards as you have described them and in the so-called questioned documents? Does the same sequence appear? Do you have the same set of numbers? A. No, sir, let me explain it this way, that in the known exhibits I selected impressions that would contain insofar as was possible either the same two-letter combinations at the end for comparison with the same two-letter combinations at the end in the questioned exhibits or comparable three-letter digits that would precede the last

338 two and would be comparable with the first three-letter digits in the questioned. Now, in making my examination, for example, I would have to compare the final 10 of 12910 with the final 10 of perhaps 13110 in the questioned, so that I am comparing them in units and to that extent it was not possible to have exactly the same sequence as you described it in both the known and the questioned arrangement but they are present and available for examination so that what I have described is visually present.

Q. But it is true, is it not, Mr. Major, that, for example, on Government Exhibit 21 is contained the figures 12910, isn't that right? A. Yes, sir.

Q. And there is no 12910 anywhere in your questioned document, isn't that right? In that sequence I have just given you. A. Not of those which I have prepared enlargements at least.

Q. Well, let me say this. Insofar as you can now recall and I don't think it is worth while looking at each exhibit because they are in the record, do you recall any identical sequence, by identical I mean where your known standard contains one set of figures, is there any identical sequence in the so-called questioned documents? A. Yes, sir. Oh, yes.

339 Q. Would you point that out? A. Yes, sir. Well, for example, we have the sequence 15100 on Government Exhibit 8-A and on Government Exhibit 27 you have 15100.

Q. That's the only one, isn't it? A. No, I don't say that's the only one, sir.

Q. Where do you find some more? A. Well, I'll look for more. Well, for complete units as you have mentioned them, I find no others on those enlargements at the moment, but again I must emphasize that the comparison is not made with a five-letter combination as compared with another five-letter combination. The first three digits are considered as a unit and compared with comparable first three numbered digits. The last two digits are considered as an independent unit and are compared with comparable last two figure digits.

Q. Now. Mr. Major, as I see it here, let's take a look at Exhibit 20C, that's the so-called questioned document. A. Yes, sir.

Q. Now, that contains two figures, does it not? A. It contains two series of figures.

Q. The bottom one of which is 8800, is that right? A. Yes, sir.

Q. Now, do you have in your series of comparison documents a comparable comparison of a three-digit figure underneath which
340 there is a four-digit figure, pardon me, a five-digit figure underneath which there is a four-digit figure? A. No, sir.

Q. Do you have any four-digit figures at all in your standards here? A. No, sir.

Q. Now, let me ask you this, Mr. Major. You have described very fairly, very accurately what you have called a questioned document, that's the series 16-D, et cetera. A. Yes.

Q. Will you tell us very briefly what a questioned document is? We all know what it is in a sense.

MR. MELNICOFF: This is a preliminary question, Mr. Examiner.

BY MR. MELNICOFF:

Q. What do you call a questioned document as an expert? A. A questioned document to me means one as to which there is a question concerning its origin or preparation.

Q. Normally is it one that has been prepared by somebody in the, let's say, usual course of events? A. Not normally.

Q. Well, let me put it to you this way then. I write a letter, I write a great many letters during the course of a day. If an issue arose as to whether or not, as to the authenticity of one of such letters,

I suppose one of such letters might be called a questioned document,
341 isn't that true? A. If there were some question as to the identity of the writer or the letter itself I would consider it or label it for purpose of description as a questioned document, yes, sir.

Q. Well, isn't it true that normally a questioned document is a document that's taken out of the usual stream of events and someone says I don't believe this thing is accurate, is authentic, I want you to test it according to your known test, isn't that right? A. I think your description is fairly accurate, sir.

Q. Thank you. Now, what you call the known standard, that is something that is especially prepared in order to make a comparison, that's all I am trying to bring out. A. Yes, sir.

Q. So then what appears as a so-called questioned document, we may say was made in the usual course of day-to-day events of the person involved here whoever that may be? A. It could be, I don't know, sir.

Q. It could be? A. Yes, sir.

Q. But it could be, you say, and I can see that you are right? A. Yes.

Q. Now, on the other hand, there isn't any doubt that this was
342 made especially by somebody for the purposes of comparison? A. Yes, sir.

Q. There isn't any doubt about that? A. That's correct, sir.

Q. Would differences of six or eight months between the time the impressions were made have anything to do with the reflection of the type characteristics? A. It did not in this case.

Q. But it could in certain cases? A. Conceivably, yes, sir.

MR. MELNICOFF: I think that's all. Thank you very much, Mr. Major.

PRESIDING OFFICER BAIN: Any redirect?

MR. MILLER: I have just a couple of questions, Mr. Examiner.

REDIRECT EXAMINATION

BY MR. MILLER:

Q. Mr. Major, did you examine the printed carbon impressions on the known standards, that is Exhibits 21 through 41, as well as the printed impressions on the paper flaps? A. Yes, sir.

Q. And are the same defects which you have pointed out in the printed impressions on the paper flaps also present in the printed carbon impressions? A. Yes, sir.

343 Q. Mr. Major, is it true that the same principles which are applicable to the examination of printed typewriter impressions are also applicable to the examination of printed impressions on the scale tickets about which you have testified? A. Not completely, sir. As I have mentioned here, we consider each unit of three as a separate unit, whereas in a typewriter you are apt to have, well, not apt to have, but you do have individual units for each letter. To that extent it differs. But to the extent that defects in the type face form the basis for the conclusion you are correct.

Q. Is it true, then, that your identification here is based upon the defects in the print type? A. Yes, sir.

Q. And is it your testimony that your identification is positive because of such defects? A. Yes, sir.

* * * * *

344 ROBERT G. McCOY

was recalled as a witness, and having been previously sworn by the Presiding Officer, was examined and testified further as follows:

DIRECT EXAMINATION (Resumed)

BY MR. MILLER:

Q. Are you the same Mr. McCoy who was testifying earlier in this proceeding? A. Yes, sir, I am.

Q. Mr. McCoy, I hand you a document which has been marked for identification purposes as Complainant's Exhibit No. 43, with parts A and B. I ask that you examine Exhibit 43-A and state what it is, if you know. A. Exhibit 43-A is a Thermo-Fax copy of the stockyards company's original copy of scale ticket No. 515886-H.

Q. Did you obtain this scale ticket from the records of the stockyard company? A. Yes, I did,

345 Q. And do you know where the original of that copy of the scale ticket is? A. I do not at the present time.

Q. Is that a Thermo-Fax copy of the scale ticket which you yourself obtained from the records of the stockyard company? A. Yes, it is.

MR. MELNICOFF: Could I have that previous question and answer read.

(Question and answer read as follows:

"QUESTION: And do you know where the original of that copy of the scale ticket is?

"ANSWER: I do not at the present time.")

BY MR. MILLER:

Q. Mr. McCoy, when a scale ticket is made at the St. Louis National Stockyards how many copies are made? A. There is an original and two copies.

Q. And what is the distribution of those copies? A. The stockyards company keeps the original and the next copy goes to the, in the case of a commission firm selling, the commission firm, the next copy goes to the buyer. In the case of a dealer selling,the second two copies go to the person selling the livestock.

Q. Do each of the copies bear the same serial number as the original? A. Yes, they do.

346 Q. Directing your attention to Complainant's Exhibit 43-B, will you state what that is, please? A. 43-B is a copy of the copy of the scale ticket, of the above scale ticket, which was maintained in the records of H. L. Sparks and Company.

Q. Is this a true and correct copy of such scale ticket which you found in the records of H. L. Sparks and Company? A. Yes, it is.

Q. Directing your attention to Complainant's Exhibit No. 44, will you identify that exhibit, please? A. Exhibit 44 is a copy of the invoice showing the 19 head of hogs and the 138 head of hogs which are shown on the copy of the scale ticket maintained in Mr. Sparks' records in Exhibit 43, and this invoice shows the sale of those hogs by H. L. Sparks and Company to Charles Miller and Company.

Q. Is this a true and correct copy of an invoice which you found in the records of H. L. Sparks and Company at National Stockyards? A. Yes, it is.

Q. Directing your attention to Complainant's Exhibit No. 45-A, will you identify that exhibit, Mr. McCoy? A. Complainant's Exhibit No. 45-A is the orignal copy of scale ticket No. 853819-H, showing 155 hogs weighing 25,530 pounds, and being sold by H. L. Sparks to No. 16.

Q. Did you obtain this scale ticket from the records of the stock-
347 yards company? A. Yes, I did.

Q. Will you identify Complainant's Exhibit No. 45-B? A. Exhibit 45-B is a copy of the copy, the above ticket, which was maintained in the records of H. L. Sparks and Company.

Q. Is this a true and correct copy of the scale ticket which you found in the records of H. L. Sparks and Company? A. Yes, it is.

Q. And in what respects does the copy of the scale ticket which you found in the records of H. L. Sparks and Company differ from the same scale ticket which you obtained from the records of the stockyard company? A. The ticket found in the records of H. L. Sparks and Company, the number of H had been changed from 155 to 154, and also written in on the ticket was eight head off, 1,495 pounds and a line drawn under this and the resulting figures of 146 head at 24,035 pounds written on this ticket.

Q. Will you identify Complainant's Exhibit No. 46, Mr. McCoy. A. Complainant's Exhibit 46 is a copy of an invoice showing the 146 head of hogs that was shown on the previous scale ticket as being sold by H. L. Sparks and Company to Avera, A-v-e-r-a, Packing Company.

Q. Is this a true and correct copy of an invoice which you found in the records of H. L. Sparks and Company at National Stockyards?

348 A. Yes, it is.

Q. Will you identify Complainant's Exhibit No. 47? A. Complainant's Exhibit 47-A is the original copy of scale ticket No. 856389-H showing 25 head of hogs at 6,500 pounds sold by Sparks. This copy was taken from the stockyards company records.

Q. And the document from which you are testifying, is that the actual scale ticket which you yourself obtained from records of the stockyard company? A. Yes, sir, it is.

Q. Will you identify Complainant's Exhibit 47-B? A. Complainant's Exhibit 47-B is a copy of the copy of the above ticket which was maintained in the records of H. L. Sparks and Company.

Q. Did you make this copy from the, from a scale ticket in the records of H. L. Sparks and Company? A. Yes, sir, I did.

Q. Will you identify Complainant's Exhibit 48? A. Complainant's Exhibit 48 is a copy of an invoice showing the 26 head of hogs as was shown on the previous scale tickets from the records of H. L. Sparks and Company as being sold by H. L. Sparks and Company to Bieterman and Moss, Incorporated.

Q. Did you prepare this copy of the invoice?

349 A. Yes, sir, I did.

Q. Is it a true and correct copy of an invoice which you examined in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Will you identify Complainant's Exhibit 49? A. Complainant's Exhibit 49-A is the original scale ticket No. 45083-H taken by me from the records of the stockyards company which shows 59 hogs, 12,060 pounds, sold by H. L. Sparks.

Q. Will you identify Complainant's Exhibit 49-B? A. Complainant's Exhibit 49-B is a copy of the copy of the above ticket as was maintained in the records of H. L. Sparks and Company.

Q. Is this a true and correct copy of this scale ticket which you examined in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Will you identify Complainant's Exhibit No. 50? A. Complainant's Exhibit No. 50 is a copy of an invoice showing the hogs as shown on the previous scale ticket copied from H. L. Sparks and Company's records as being sold to I. Klayman, K-l-a-y-m-a-n, and Company by H. L. Sparks and Company.

Q. Is this a true and correct copy of the invoice which you examined in the records of H. L. Sparks and Company? A. Yes, sir, it is.

MR. MILLER: May the Examiner please, I offer into evidence
350 Complainant's Exhibits 43 through 50.

* * * * *

BY MR. MILLER:

Q. Mr. McCoy, I have handed you documents which have been marked for identification as Complainant's Exhibits 51 through 64. I direct your attention first of all to Complainant's Exhibit 51-A. Will you identify
351 that, please. A. Complainant's Exhibit 51-A is the original scale ticket taken from the stockyards' records, No. 330605-H.

Q. Did you yourself obtain this record from the, this scale ticket from the stockyard company's records? A. Yes, sir.

Q. And by stockyards, Mr. McCoy, whenever reference is made to stockyard are we referring to the St. Louis National Stockyards in East St. Louis? A. Yes, sir.

Q. Will you identify, Mr. McCoy, Complainant's Exhibit 51-B? A. Exhibit 51-B is a copy of the copy of the above ticket which was maintained in the records of H. L. Sparks and Company.

Q. Is this a true and corrrct copy of the scale ticket maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. And in what respect does this scale ticket differ from the scale ticket maintained in the stockyard company records? A. The copy maintained in the records of H. L. Sparks and Company has written in notation on it of three head off, three hundred ninety pounds, then a line

drawn under that and those figures are subtracted from the immediately preceding figures of sixty head at nine thousand forty pounds and the resulting figures are shown as fifty-seven head at eight thousand six
352 hundred fifty pounds. This ticket also shows the packer to whom this livestock was sold, and the price the hogs were sold at which is not on the original ticket.

Q. Did you make an examination of the stockyard company records to determine whether or not there existed a scale ticket showing the weighing by H. L. Sparks of three hogs at a total weight of three hundred ninety pounds? A. I did, and I was unable to find a scale ticket showing three hogs at three hundred ninety pounds.

Q. Will you identify Complainant's Exhibit No. 52? A. Complainant's Exhibit No. 52 is a copy of an invoice which shows the sale of the 37 head of hogs, 57 head of hogs, resulting after the computations were made on the previous scale ticket as being sold by H. L. Sparks and Company to Charles Miller and Company.

Q. Did you prepare this copy, Mr. McCoy? A. Yes, sir, I did.

Q. Is this a true and correct copy of an invoice which you examined in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Will you identify Complainant's Exhibit 53-A, please? A. Complainant's Exhibit 53-A is a copy of the original scale ticket No. 406772-H.

Q. Is this a scale ticket which you yourself obtained from the records of the stockyard company? A. Yes, it is.

353 Q. Will you identify Complainant's Exhibit 53-B? A. Complainant's Exhibit 53-B is a copy of the above scale ticket, correction, please, it is a copy of the copy of the above scale ticket which was maintained in the records of H. L. Sparks and Company.

Q. With respect to the entries on Complainant's Exhibit 53 relating to head count and weight, in what respect do those entries on Complainant's Exhibit 53-B differ from similar entries on Complainant's Exhibit 53-A? A. Complainant's Exhibit 53-B has entered on the scale ticket 25 head, 6,250 pounds, which is deducted from the 121 head at 27,945 pounds, and the resulting figures of 96 head at 21,695 pounds.

Q. On the copy of the scale ticket which you examined in the records of H. L. Sparks and Company and which is marked Complainant's Exhibit 53-B, were the figures 6,250 and 25 written or printed? A. They were written on the scale ticket.

Q. And how about the figures 21,695 and 96? A. Those numbers were written on the ticket.

Q. Did you make an examination, Mr. McCoy, of the stockyard company's records to determine whether or not you could find any records showing that 25 hogs had been weighed by H. L. Sparks at a weight of 6,250 pounds? A. I did, and I was unable to find such a scale ticket.

354 MR. MELNICOFF: Could I have that last answer read, please.

(Answer read.)

MR. MELNICOFF: Will you read the question, too.

(Question read.)

BY MR. MILLER:

Q. Will you identify Complainant's Exhibit No. 54? A. Complainant's Exhibit No. 54 is an invoice which shows the resulting 96 head of hogs at 21,695 pounds and the 25 head of hogs at 6,250 pounds as shown on the previous scale ticket as being sold to Merkel, Incorporated, by H. L. Sparks and Company.

Q. Is this a copy of an invoice which you examined in the records of H. L. Sparks and Company? A. Yes, it is.

Q. Will you identify Complainant's Exhibit 55? A. Complainant's Exhibit 55 is the original scale ticket which I obtained from the stockyards company records No. 569248-H.

Q. Will you identify Complainant's Exhibit 55-B? A. Complainant's Exhibit 55-B is a copy of the copy of the above ticket which was maintained in the records of H. L. Sparks and Company.

Q. On Complainant's Exhibit 55-B, Mr. McCoy, the copy of the scale ticket as maintained in the records of H. L. Sparks and Company, 355 were the figures 16,030 and 93 written or printed? A. The 16,030 were printed and the 93 was written.

Q. How about the weight figure 4,960 and the head count 30? A. The weight figure 4,960 and the head count 30 were both written on the ticket.

Q. And the figure 11,070? A. The figure 11,070 and the head count 63 were both written on the scale ticket.

Q. Will you identify Complainant's Exhibit No. 56? A. Complainant's Exhibit No. 56 is an invoice showing 157 hogs, weighing 28,075 pounds sold to Neuhoff Brothers Packing Company, Incorporated, by H. L. Sparks and Company.

Q. Is Complainant's Exhibit 56 a true and correct copy of an invoice maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Mr. McCoy, did you examine the stockyard company records to determine whether or not you could find any scale ticket showing the weighing of 30 hogs by H. L. Sparks and Company at a total weight of 4,960 pounds? A. I did and I was unable to find such scale ticket.

MR. MILLER: May the Examiner please, I just learned last night that the date of this particular transaction was incorrectly alleged in the

356 Order of Inquiry. This transaction was alleged in the Order of Inquiry as having occurred on 9/1/54, it should be 9/7/54, and I therefore move that the Order of Inquiry be amended accordingly.

PRESIDING OFFICER BAIN: Is there any objection?

MR. MELNICOFF: I'm just trying to see. Is that the third one on page 10, Mr. Miller?

MR. MILLER: Yes, sir.

MR. MELNICOFF: 9/1/54 should be what you say?

MR. MILLER: 9/7/54.

MR. MELNICOFF: No objection, Mr. Examiner.

PRESIDING OFFICER BAIN: That may be understood.

BY MR. MILLER:

Q. Will you identify Complainant's Exhibit No. 57, Mr. McCoy? A. Complainant's Exhibit No. 57 is the original copy taken from the stockyards company records of scale ticket No. 761302-H.

Q. Did you personally obtain this scale ticket from the records of the stockyard company? A. Yes, sir, I did.

Q. Would you identify Complainant's Exhibit No. 57-B? A. Complainant's Exhibit No. 57-B is a copy of the copy of the above ticket which was maintained in the records of H. L. Sparks and Company.

357 Q. Is this a true and correct copy of such records? A. Yes, sir, it is.

Q. With respect to the weight and head count entries appearing in Complainant's Exhibit No. 57-B, will you state in what respect such entries differ from the entries made on Complainant's Exhibit 57-A? A. On Complainant's Exhibit 57-B the figures three off and three hundred have been written in on the scale ticket. A line has been drawn under these figures and the resulting figures after subtracting this head count and weight from the original head count and weight are shown as 80 head at 8,955 pounds.

Q. Did you examine the records of the stockyard company, Mr. McCoy, to determine whether or not you could find a scale ticket showing three hogs weighing a total weight of three hundred pounds which were weighed by H. L. Sparks and Company? A. Yes, sir, I did and I was unable to find such a scale ticket.

Q. Would you identify Complainant's Exhibit 58? A. Complainant's Exhibit 58 is an invoice showing the sale of the resulting 80 head of hogs at 8,955 pounds by H. L. Sparks and Company to Avera Packing Company.

Q. Is this a true and correct copy of an invoice maintained in the records of H. L. Sparks and Company? A. Yes, it is.

358 Q. Will you identify Complainant's Exhibit No. 59? A. Complainant's Exhibit No. 59-A is the original copy of scale ticket No. 880822-H.

Q. Did you obtain this scale ticket from the records of the stockyard company? A. Yes, sir, I did.

Q. Would you identify Complainant's Exhibit 59-B? A. Complainant's Exhibit 59-B is a copy of the copy of the above ticket as was maintained in the records of H. L. Sparks and Company.

Q. With respect to head count and weights in what respect does Complainant's Exhibit 59-B differ from Complainant's Exhibit 59-A? A. Complainant's Exhibit 59-B differs from Exhibit 59-A in that in the column "hogs" 15 has been written in and in the weight bracket 1,615 has been written in. Also these figures have been deducted from the original figures and also written in is the resulting 12 head and 1,260 pounds.

Q. Did you examine the records of the stockyard company to determine whether or not you could find a scale ticket showing 15 hogs weighed by H. L. Sparks and Company at a total weight of 1,615 pounds? A. Yes, sir, I did, and I was unable to find such scale ticket.

Q. Will you identify Complainant's Exhibit 60? A. Complainant's
359 Exhibit 60 is a copy of an invoice showing the sale of the previously mentioned 12 head of hogs at 1,260 pounds by H. L. Sparks and Company to Avera Packing Company.

Q. Is this a true and correct copy of an invoice maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Will you identify Complainant's Exhibit 61? A. Complainant's Exhibit 61 is the original copy of scale ticket No. 512432-H.

Q. Did you personally obtain this scale ticket from the records of the stockyard company? A. Yes, sir.

Q. Would you identify Complainant's Exhibit 61-B? A. Exhibit 61-B is a copy of the copy of the above ticket as was maintained in the records of H. L. Sparks and Company.

Q. With reference to the weight and head count figures appearing on Complainant's Exhibit 61-B in what respects do these figures differ from such entries appearing on Complainant's Exhibit 61-A? A. In Complainant's Exhibit 61-B the one head of two hundred fifty pounds has been written in on the scale ticket and added to the original figures of twenty head and thirty-nine hundred fifty-five pounds and the resulting head count of twenty-one and the weight of four hundred two hundred
360 five pounds have been written in on the ticket.

Q. Did you examine the stockyard company records to ascertain whether or not one hog had been weighed by H. L. Sparks and Company at a weight of two hundred fifty pounds? A. Yes, sir, I did, and I was unable to find such a ticket.

MR. MELNICOFF: May I hear that last answer?

THE WITNESS: I said I was unable to find such a ticket.

BY MR. MILLER:

Q. Will you identify Complainant's Exhibit 62? A. Complainant's Exhibit 62 is a copy of an invoice showing the sale of the previously mentioned 21 hogs, 4,205 pounds by H. L. Sparks and Company to I. Klayman and Company.

Q. Is this a true and correct copy of an invoice as maintained in the records of H. L. Sparks and Company? A. Yes, it is.

Q. Would you identify Complainant's Exhibit 63? A. Complainants Exhibit 63 is the original, 63-A, is the original copy of scale ticket No. 588615-H as taken from the stockyard company records.

Q. Did you yourself obtain this? A. Yes, sir, I did.

Q. Will you identify Complainant's Exhibit 63-B? A. Complainant's

361 Exhibit 63-B is a copy of the copy of the above ticket as was maintained in the records of H. L. Sparks and Company.

Q. Are there any weight and head count figures appearing on Complainant's Exhibit 63-B which do not appear on Complainant's Exhibit 63-A? A. Yes, there are. One head at five hundred pounds have been added to the ticket which is labeled as Complainant's Exhibit 63-B.

Q. Were those figures written in? A. Yes, sir, they were.

Q. Did you examine the records of the stockyard company, Mr. McCoy, to determine whether or not one hog had been weighed by H. L. Sparks and Company at a total weight of five hundred pounds? A. I did and I was unable to find such a ticket.

Q. Will you identify Complainant's Exhibit 64? A. Complainant's Exhibit 64 is a copy of an invoice showing the sale of the previously mentioned hogs, showing the sale of the hogs that are shown on the previous scale ticket by H. L. Sparks and Company to Belvedere Packing Company.

Q. Is this a true and correct copy of an invoice as maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

362 Q. Mr. McCoy, I notice that the scale tickets covered by Complainant's Exhibit 63 are dated October 2, whereas the invoice to Belvedere Packing Company is dated November 2, '54. Can you explain that difference? A. These scale tickets were incorrectly dated by the weighmaster as 10/2 rather than 11/2. The scale ticket of the stockyards company records was found in the pack of tickets for that scale for 11/2/54 and the weighmaster's reporter on the tickets used by him for that day which shows the serial number of the beginning ticket he used and the last one indicated that this ticket was used on 11/2/54.

Q. This transaction, then, did occur on November 2, 1954? A. Yes, sir.

MR. MILLER: May the Examiner please, I now offer into evidence Complainant's Exhibits 51 through 64.

* * * * *

363 BY MR. MILLER:

Q. Mr. McCoy, you have been handed documents which have been identified as Complainant's Exhibits 65 through 75. Directing your attention to Complainant's Exhibit No. 65 will you briefly identify this exhibit?

364 MR. MELNICOFF: Will you excuse me, Mr. Miller? Off the record.

PRESIDING OFFICER BAIN: Off the record.

(Discussion off the record.)

PRESIDING OFFICER BAIN: On the record.

BY MR. MILLER:

Q. Would you identify Complainant's Exhibit 65? A. Complainant's Exhibit 65 consists of three scale tickets. These are original scale tickets as maintained by the stockyards company.

Q. Did you obtain these scale tickets from the records of the stockyard company? A. Yes, sir, I did.

Q. Would you identify Complainant's Exhibit 66? A. Complainant's Exhibit 66 consists of copies of the copies of the same three scale tickets as maintained in the records of H. L. Sparks and Company.

Q. Directing your attention, Mr. McCoy, to Complainant's Exhibit No. 67, is Complainant's Exhibit 67 a true and correct copy of the invoice which you examined in the records of H. L. Sparks and Company? A. Yes, sir, it is.

Q. Would you identify Complainant's Exhibit 68, Mr. McCoy?

365 A. Complainant's Exhibit 68 consists of the original copy of the stockyards company scale ticket No. 251393-H.

Q. Is this a scale ticket, Mr. McCoy, which you obtained from the records of the stockyard company? A. Yes, sir, it is.

Q. Would you identify Complainant's Exhibit 69? A. Complainant's Exhibit 69 consists of two copies of scale tickets, the first is a copy of the copy of the scale ticket as shown on Exhibit 68 which was maintained in the records of H. L. Sparks and Company.

Q. Is that a true and correct copy of such record? A. Yes, sir, it is.

Q. You may continue. A. And the second ticket is a copy of the copy of a scale ticket maintained in the records of H. L. Sparks and Company.

Q. Will you identify Complainant's Exhibit 70? A. Complainants Exhibit No. 70 is an invoice showing the sale of the previously mentioned, of the hogs shown on the two previously mentioned scale tickets as being sold by H. L. Sparks and Company to Charles Miller and Company.

Q. Would you identify Complainant's Exhibit 71, Mr. McCoy? A. Complainant's Exhibit 71 consists of the original copies of three scale tickets, tickets Nos. 824725-H, and 824734-H and 824803-H.

366 Q. Did you obtain these scale tickets from the records of the stockyard company? A. Yes, sir, I did.

Q. Would you identify Complainant's Exhibit 72? A. Complainant's Exhibit 72 consists of copies of copies of two scale tickets as maintained in the records of H. L. Sparks and Company. The first one is a copy of ticket No. 824734-H and the second one is a copy of ticket No. 824725-H.

Q. Is Complainant's Exhibit No. 73, Mr. McCoy, a true and correct copy of an invoice maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

MR. MELNICOFF: Could I have that last question and answer read?

(Question and answer read.)

MR. MELNICOFF: You are going to Exhibit 73, then?

MR. MILLER: Yes.

May the Examiner please, I would like to point out for the benefit of the Examiner and counsel for the respondent that Complainant's Exhibits 71 and 72 and 73 relate to the first transaction which is alleged on page 7 of the Order of Inquiry. That date is incorrectly alleged in the Order of Inquiry. It is alleged as 9/14/56. It should be 9/14/55. I therefore move

367 that the Order of Inquiry be amended accordingly.

PRESIDING OFFICER BAIN: Is there any objection?

MR. MELNICOFF: No objection.

BY MR. MILLER:

Q. Directing your attention to Complainant's Exhibit No. 74, will you identify such exhibit. A. Complainant's Exhibit No. 74-A is the original copy of scale ticket No. 304379-H which I obtained from the records of the stockyards company. Complainant's Exhibit 74-B is a copy of the copy of the above ticket which was maintained in the records of H. L. Sparks and Company.

Q. Is that a true and correct copy of the scale ticket as it appeared in the records of H. L. Sparks and Company? A. Yes, it is.

Q. Will you identify Complainant's Exhibit 75? A. Complainant's Exhibit 75 is a copy of an invoice showing the sale of the previously shown 85 hogs -- correction -- showing the sale of the 85 hogs shown on the previous scale ticket by H. L. Sparks and Company to Krey.

Q. Is this a true and correct copy of an invoice as maintained in the records of H. L. Sparks and Company? A. Yes, sir, it is.

MR. MILLER: May the Examiner please, I now offer into evidence Complainant's Exhibits 65 through 75.

* * * * *

369 ## CROSS EXAMINATION

BY MR. MELNICOFF:

Q. Mr. McCoy, I direct your attention to Exhibit No. 43. I notice there, for example, 43-B. There you have, the scale ticket figure is written in in hand, do you see that? A. Yes.

Q. Why was that done that way? A. Well, I copied the ticket and I wrote in the number. Of course, this is a printed number on there -- well, I used a regular ticket to copy the ticket on and I marked out that number that was printed on and wrote in the number of the ticket that I

370 was copying.

Q. But the original ticket from which you made the copy from was in the records of the Sparks Company, is that right? A. Yes.

Q. And did you ask to be allowed to take that ticket with you, the original? A. No, I just copied it there.

Q. You didn't ask them to give you the ticket? A. I asked to look at the tickets.

Q. But you didn't ask to take it with you? A. No, I just copied the ticket.

Q. There was no refusal on the part of the Sparks Company to give you the ticket, that's what I'm trying to get at? A. No.

Q. And all through your investigation of this Sparks Company at National Stockyards, Illinois, they did co-operate with you? A. Yes, sir, they did.

Q. Very helpful and you have no complaint along that line, I take it? A. No, sir, I don't.

Q. Now, the same thing is true, I take it, of Exhibit 54, that's a copy that you made, is that right? A. No. 54?

371 Q. Excuse me, I beg your pardon, 44. A. Yes, sir, that's a copy I made from his copy in his records.

Q. Now, on Exhibit 44, which is the invoice, is there anything reflected on there which is not connected up with Exhibits 43-A and B? A. Well, there are 22 head of hogs shown on that invoice that are not shown on Exhibits 43-A and B.

Q. Well, is it your intention to offer anything on Exhibit 44, the invoice copy which does not appear on either Exhibit 43-A and B?

* * * * *

372 MR. MILLER: Complainant's Exhibit No. 44 is being offered to show that there was in the files of H. L. Sparks & Company, National Stockyards, Illinois, invoice dated October 25, 1954, showing the sale of certain hogs to Charles Miller & Company, Union City, New Jersey.

* * * * *

375 BY MR. MELNICOFF:

Q. Mr. McCoy, I suppose the same answer would hold with respect to 45-B. There you made a copy, is that right? A. Yes, sir.

Q. And you obtained that in the way you have indicated? A. Yes.

Q. Now, and Exhibit 46 relates only to the hogs that are reflected in Exhibit 45, is that right? A. Yes, sir, that's right.

Q. Now, we come to 47 and again 47-B is a copy made by you in the manner that has been indicated, is that right? A. Yes, sir.

Q. And Exhibit 48, the one line there which relates to Exhibit 47 is that which says PRR 135, 147, 26 hogs and so forth, is that right? A. Yes, sir, that's correct.

Q. The other information on there does not relate to the Exhibit 47, does it?

MR. MILLER: What was that question, please, Mr. Melnicoff?

BY MR. MELNICOFF:

Q. The other information on Exhibit 48 other than that I have just spoken about does not appear on Exhibit 47? A. The other items on Exhibit 48 did count in weight, head count and weight and so forth of the

376 hogs do not appear on Exhibit 47, no.

BY MR. MELNICOFF:

Q. The only item on 48 which refers to 47 is that which appears on the line 26 hogs and everything to the right of that on the same line?

MR. MILLER: Are you referring only to head count and weights, Mr. Melnicoff, or are you referring to the entire exhibit?

MR. MELNICOFF: The entire exhibit, head, count, weight, price, total.

A. Well, as I said, the other items of head, count and weight do not appear on Exhibit 47.

BY MR. MELNICOFF:

Q. So that on the second line of Exhibit 48 you show the disposition of 6,500 pounds of hogs for which there you have a copy of a scale ticket, Exhibit 47-B, is that right? A. Yes, sir.

Q. You have no scale ticket or anything else for any of the other items mentioned in Exhibit 48 other than the one that I have just read to you? A. That's right.

Q. Now, on Exhibit 49, there 49-B is a copy made in the manner you have just stated, is that right? A. Yes, sir.

377 Q. And Exhibit 50 is an invoice. The first line there shows the disposition of 12,060 pounds of hogs, is that right? A. That's right.

Q. And that's the amount reflected on Exhibit 49-B? A. Yes, sir.

Q. And except for the information reflected on that line, nothing else on there relates to the sale or disposition of the hogs shown on Exhibit 49-B? A. Well, the other items would relate to the sale since they were all sold to the same customer.

Q. But you have nothing in 49-A or B about 14 hogs, is that right? A. No, sir.

Q. About 15 hogs? A. No, sir.

Q. Or the other information reflected on those lines on 50 to the right of the figures 14 and 15? A. No, sir.

Q. So far as Exhibit 50 is concerned it reflects Exhibit 49 only on that one line, the top line where you refer to 60 hogs? A. The top line referring to 60 hogs shows the sale of the 60 hogs.

Q. That's right. Now, we come to No. 51, 51-B is a copy made by you in the manner indicated, is that right? A. Yes, sir.

378 Q. And 52 is the invoice, is that right? A. Yes, sir.

Q. The first two lines of 52, that is where the figures 60 and 37 appears, do you see that? A. Yes, sir.

Q. Those relate to Exhibits 51-A and B, do they not? A. Yes, sir, they do.

Q. And everything to the right of those two figures on those two lines on the same lines refer to Exhibits 51-A and B, is that right? A. Yes, sir.

PRESIDING OFFICER BAIN: I beg your pardon, look at those carefully again, please.

MR. MILLER: What was the question?

MR. MELNICOFF: In what way have I misstated, Mr. Examiner?

PRESIDING OFFICER BAIN: You said the 60 and 37 referred to Exhibit 51. I believe the 57 refers to Exhibit 51, 57 hogs at a weight of eight six five zero. The 37 also, yes.

BY MR. MELNICOFF:

Q. Well, in any event, all that 52 is supposed to do is to reflect the disposition of the hogs shown on Exhibits 51-A and B, is that right? A. It shows the disposition of the 37 head of hogs.

379 Q. Yes? A. And the 57 head of hogs.

Q. That's right. What about the 60 head of hogs? A. Well, the 60 head of hogs have had three deducted from them on the copy of the ticket that was maintained in Mr. Sparks' records and the 60 are nct accounted for as such. Fifty-seven of the sixty are accounted for.

Q. But there is a charge out there for three drafts of hogs, is there not? A. You mean on Exhibit 52?

Q. Yes. A. No. 52 contains three drafts of hogs, yes.

Q. Now, which of the items on 52 relate to 51? A. The 37 head weighing 3,615 pounds at $22.00 a hundred and the 57 head weighing 8,650 pounds at $25.00 a hundred.

Q. And the item on the first line, 60 doesn't apply to 51-A and B? A. The 60 head shown on the invoice on Exhibit 52 is not shown on Exhibit 51 on the scale tickets.

Q. In 53 we have the same answer with regard to the copy, is that right? A. Yes, sir.

Q. Now, on the upper right-hand corner of 53-B there is a penned note. Was that put there by you? A. That was copied from the copy in the records of Sparks.

380 Q. Can you read that? A. The first word is not quite legible but it looks like it is something Heil mixed 25 hogs by mistake.

Q. When did you make that copy? A. At the time I copied the ticket.

Q. Did you have difficulty reading it at that time? A. I felt that the first word I was unable to read, the rest of it was clear.

Q. Did you ask anybody what that first word meant? A. No, sir, I didn't.

Q. And you copied this in the Sparks office over at National Stockyards? A. Yes, sir.

Q. And didn't ask anybody about it? A. No, sir.

Q. In other words, there were Sparks people around there, were they not? A. They were there.

Q. But you didn't make any inquiry? A. Not on that, no. Not to my knowledge, I don't remember of asking about it.

Q. Well, did you ask? A. I don't think that I did, at least if it had been clarified as to what the first word was I would have written it so that
381 I could read it.

Q. Well, how did you know what to write down there? A. I wrote as near as I could tell the way it appeared on the copy.

Q. Did it ever occur to you to have that piece of paper and have a photostat copy made of it? A. You mean his copy?

Q. Yes. A. Well, I didn't think it was necessary.

Q. Well, you were attempting to reflect an item which is a part of his records. How could you reflect what you couldn't decipher? A. Well, I didn't think that it was that important.

Q. What would you consider important? A. Well, I think the changing of the head and weight or anything like that on a ticket is certainly important and I think the changing of any basic information on the tickets is important.

Q. And you said you read carefully and clearly the word mistake. Do you suppose if that word mistake referred to some information on there that that might modify or change the information on there to some extent, that perhaps it wouldn't be a change as you saw? A. Would you repeat that question?

MR. MELNICOFF: Would you read the question, please, Mr.
382 Reporter?

(Question read.)

MR. MILLER: I object to the form of the question. I certainly don't know what it means.

BY MR. MELNICOFF:

Q. Does the witness know what it means? A. What the question means?

Q. Yes. A. It isn't clear, no.

Q. All right. What were you in there for, can you tell me that? A. To audit their records.

Q. Audit the records. Now, does that mean examining their records and coming to some conclusion about them? A. Yes, sir.

Q. And this 43-B, pardon me, 53-B was part of the records of this Sparks Company that you were auditing? A. It was.

Q. The original record that they had was right there before you? A. The records that they had were before me, yes.

Q. Made available to you? A. Yes.

Q. On that record and apparently as far as you know a part of it was a notation, is that right, in the upper right-hand corner? A. That's
383 right.

Q. It is usual for it to be there?

MR. MILLER: Will you read that question again, please?

PRESIDING OFFICER BAIN: Was it usual for it to be there.

MR. MILLER: Thank you.

A. Well, generally, no, I would say not usual to find a notation.

BY MR. MELNICOFF:

Q. In how many other instances did you find notations of any kind on a copy of a scale ticket in the Sparks records, many, few or none? A. Oh, I would say that there were some notations on the scale tickets.

Q. More without notations than there were with notations? A. Yes.

Q. Nevertheless you have come across a notation which is somewhat of an unusual situation and moreover it contains a word which is unintelligible to you, nevertheless you don't make an inquiry, you simply come to a conclusion as to what you think the word means, write it down and then sponsor it into this record as evidence, is that right? A. Well,
384 I wrote the part of the notation that I understood and the first word which I couldn't read I didn't think was important.

Q. You have testified under oath here that 53-B was a true and accurate copy of what you found in the Sparks records. Is it such a true and accurate copy? A. It is true to the best of my ability to copy that.

Q. But you admit now that the first word of that notation is not a true and accurate copy, is that right? A. Oh, no, I won't admit that. It is true and accurate, as true and accurate a copy as I can make.

Q. But you don't know what the word means? A. No.

Q. So how could you copy it then?

MR. MELNICOFF: In these circumstances I believe that 53-B be excluded. The original record is available and it will be made available in this courtroom.

PRESIDING OFFICER BAIN: I believe under the testimony here if the witness had written that word so it was readable it would not be a true and correct copy. I believe he has testified that the original was not readable. Therefore, if you want to get that technical, why, if he had written the word here that was readable it would not have been an exact copy. I don't believe the objection is good.

MR. MELNICOFF: Mr. Examiner, I am not going to argue with
385 the Examiner, of course, I am not allowed to and I will not but I

must say this if I may. This witness is required, he said he brought in a true and accurate copy so that he now make a garbled copy which he assumes is garbled in the same manner that the original is garbled.

PRESIDING OFFICER BAIN: You didn't hear the evidence like I did.

MR. MELNICOFF: Perhaps not.

PRESIDING OFFICER BAIN: He said the original was garbled, therefore, in order to make a true copy he had to garble it.

MR. MELNICOFF: So we admit now that we have sponsored in evidence a garbled copy?

PRESIDING OFFICER BAIN: Well, let's say a true copy of a garbled original. That's the way I understand to make the evidence.

MR. MELNICOFF: And you are asked to make a finding on that?

PRESIDING OFFICER BAIN: If I had to make a finding on that and this word here was plain and the one on the original was not plain what could I do? I couldn't make a correct finding, could I?

MR. MELNICOFF: That's true, Mr. Examiner. I don't think you can make a correct finding here.

PRESIDING OFFICER BAIN: That's right, just like in a quotation,
386 if there is a word misspelled on any of those things and the witness takes it down correctly spelled then it wouldn't be quite accurate.

BY MR. MELNICOFF:

Q. Exhibit 54, then, is there anything on Exhibit 54 which reflects 53-A and B? A. Yes. On Exhibit 54 is shown the 25 hogs at 6,250 pounds as shown on Exhibit 53-B and 96 hogs at 21,695 pounds as shown on Exhibit 53-B.

Q. And the items relating to the 124 hogs have no relation to either 53-A or B, is that right? A. Well, the 124 hogs are not shown on Exhibits 53-A or B.

Q. Fifty-five - we have the same situation, I take it, insofar as the copy is concerned? A. Yes, sir.

Q. And a copy, I mean Exhibit 55-B. Now, 56, what appears on 56 that was taken from Exhibits 55-A and B? A. Well, now, Exhibit 56 is a copy of the invoice --

Q. Yes. A. (Continuing) which includes the -- it includes hogs that are shown on Exhibit 55-B and I have copies of two additional scale tickets which make up, which together with hogs on Exhibit 55-B make up the 156 hogs shown in Exhibit 56.

Q. So that the hogs shown on Exhibit 55 are a part of the 157?

387 A. Yes, sir.

Q. And you say you have two additional scale tickets but you haven't produced those into this record, is that right? A. That's right.

Q. And I suppose you assume, that it is your position that the additional scale tickets that you have do not relate to this item, is that right? A. Well, they relate to it insofar as making up the 157 head.

Q. But you are only concerned with 56 showing the disposition of what is reflected on Exhibits 55-A and B? A. Exhibit 56. The purpose is to show the sale of --

Q. (Interrupting) The hogs shown on 55-A and B? A. The sale of the hogs shown on 55-B.

Q. And to the extent that it shows other hogs for which you have other sales tickets you haven't even produced those sale tickets? A. No, sir, they are not a part of the exhibit.

Q. I see. Are you going to introduce them later? A. I can produce them if it is necessary.

Q. Exhibit 57, the same thing is true with the copy, is that right, as has been true with all of them? A. Yes, sir.

Q. What is on 58 that reflects the information contained on 57-A and B? A. Exhibit 58 contains the 80 hogs weighing 8,955 pounds as are shown
388 on Exhibit 57-B.

Q. And everything else on there except the information contained on that first line on 58 doesn't relate to Exhibit 57-A or B, is that right? A. The other information is not shown on Exhibit 57-A or B.

Q. Then 58 is for the purpose to show the disposition of the hogs shown on Exhibit 57-A and B? A. Its purpose is to show the distribution of 80 hogs shown on Exhibit 57-B.

Q. Now, 59, we have the same answer, I suppose, as to the copy, is that right? A. Yes, sir.

Q. And on 60, Exhibit 60, what is there that reflects the information contained on 59? A. Exhibit 60 shows the 12 head at 12,060 pounds as shown on Exhibit 59-B.

Q. That's the only information on 60 that relates to the information, to Exhibits 59-A and B? A. That's the only information on Exhibit 60 which is shown in Exhibit 59-A and B.

Q. The same thing is true with 61 regarding the copy that you made, is that right? A. Yes, sir.

389 Q. And on 62 what is there that reflects the information shown on Exhibit 61? A. Exhibit 62 shows the 21 head as shown on Exhibit 61-B.

Q. And no other information on 62 relates to 61, is that right? A. No other information on Exhibit 62 is shown on the Exhibits 61-A and B.

Q. And 62 has the purpose of showing the disposition of the hogs reflected on Exhibit 61-B, is that right? A. That's right.

Q. Now, what is that note on 62 there? Can you read that? A. That's note one dead, pen 122, heavy boar, average 550, count 189.

Q. That doesn't refer to the hogs with which we are now concerned, is that right, so far as you know? A. No, sir, that does not refer to the hogs shown on Exhibit 61-A and B.

Q. Yes, sir. Now, 63-B, the copy was made in a manner described hitherto, is that right? A. Yes, sir.

Q. And in 64 what is it that reflects the information contained on 63? A. Exhibit 64 shows the sale of the six head weighing 530 pounds

390 and one head weighing 390 pounds and the one head weighing 500 pounds as shown on Exhibit 63-B.

Q. That's the last three lines of Exhibit 64? A. Well, that would be, not exactly the last three lines, the next line shows the total.

Q. Well, I was thinking of the lines across the page, 1, 2, 3 (indicating), is that right? A. Yes.

Q. And 64 is for the purpose of showing the disposition of the hogs on Exhibit 63, is that right? A. On Exhibit 63-B.

* * * * *

BY MR. MELNICOFF:

Q. When did you make these? A. They were made during the summer of 1956.

Q. At the time you made them did any of the information disclose
391 that a possible violation of the Act and regulations had been committed? A. Did the information disclose to me that a possible violation of this --

PRESIDING OFFICER BAIN (interrupting): A little bit louder.

A. (Continuing) -- had been committed?

BY MR. MELNICOFF:

Q. Yes. A. Yes, that information was disclosed to me from the records.

Q. Did you ever discuss it with anybody in the Sparks organization? A. No, sir, as an accountant it is not my function to discuss with the registrants their trade practices, their operations. I report to my supervisor and he discusses with the registrant.

Q. Did you ever ask anyone in the Sparks organization to explain to you any of the transactions that were reflected in either these exhibits or in any other phase of your examination? A. Oh, I'm sure I asked them to explain a number of transactions at various times.

Q. Well, were your inquiries directed to explain, asking for explanations of their methods and procedures or was it to ask them to
392 explain what appeared to be a possible violation? A. I did not ask them to explain these particular exhibits which are shown in these exhibits.

Q. Now, Exhibit 65. Now, this, I understand, relates to paragraph 7 of the Order of Inquiry. When did you ascertain this information and make the copies that are reflected here? A. Well, this was done along in '56, about the time of these particular observations.

Q. Now, Exhibit 65 shows a series of scale tickets, three, is that right? A. Yes, sir, that's right.

Q. These, you say, appear to be photostatic reproductions of the records of the yard company, is that right? A. No, these are the originals.

Q. And where did you get those? A. From the yard company's records.

Q. I notice that the numbers of the scale tickets are in handwriting, is that your handwriting? A. Which exhibit are you referring to?

Q. Exhibit 65, at least on my copy, perhaps it doesn't appear on yours. A. Oh, that's a Thermofax copy, yes.

Q. Am I to understand, then, that the original contains the stamped figures but through some inability of the reproduction method used they

393 don't appear on the copy? A. That's right. The numbers had to be written in.

Q. And they are copies, of course, of the exact numbers that appear on the originals? A. Yes, sir.

Q. Now, Exhibit 66, I take it, is a copy of those which appear on 65, is that right? A. It is a copy, Exhibit 66 is a copy of the same scale tickets which were maintained in the records of H. L Sparks & Company. It is the same scale tickets on the same transactions as the scale tickets on Exhibit 65.

Q. And you found it necessary to make a copy rather than make a photostat of the records that were in the entity on the National Stockyards, is that right? A. Yes, sir.

Q. You obtained these records, that is 66, from the stockyard entity, Sparks entity? A. On Exhibit 66, yes, sir.

Q. Where in 66 does any substitution appear, can you show me that? A. These exhibits do not -- oh, correction. I was merely ordered to obtain these records. As far as exactly where the substitutions occurred would have to be testified to by the persons making the observations.

Q. So neither 65 nor 66 shows any substitution at all, is that right?

394 A. I wouldn't say that. Those are certain records which we copied.

Q. I see. Now 67, what does that relate? A. Exhibit 67 is a copy of the invoice which shows the sale of the hogs that are shown on Exhibits 65-A and 66 by H. L. Sparks & Company to Krey.

Q. Now, that item on 67 next to the last line, 225 and the items out to the right, does that have any relation to the transactions, to the exhibits appearing on 65 and 66? A. Where is that you are talking about now?

Q. On Exhibit 67(indicating), 225 and the figures immediately to the right of that. A. That's the total number of head.

Q. Now 68, frankly, has me a little bit puzzled. Is that a scale ticket, 68? A. Exhibit 68, yes, this is the original scale ticket, stockyards copy of the original scale ticket.

Q. What is 69? A. Exhibit 69, the first ticket is a copy of the copy which was maintained in the records of H. L. Sparks & Company which is the same as the ticket shown in Exhibit 68. In other words, a copy of the copy of that ticket that was maintained by H. L. Sparks & Company.

Q. What's the second ticket on Exhibit 69? A. The second ticket

395 on Exhibit 69 is a copy of a copy of a ticket that was maintained in the records of Mr. Sparks showing 166 head, 25,075 pounds which is also shown on Exhibit 70 which is the invoice showing the sale of it, which also shows the sale of the 168 hogs shown on Exhibit 68.

MR. MELNICOFF: Mr. Examiner, in connection with these exhibits, there have been a great number as you see. I renew the motion that I made previously that insofar as the exhibits are concerned which reflect invoices, those invoices contain information other than that with which we are immediately concerned. As I understand, there was no attempt to expand the complaint. Insofar as that information is there, if it is not intended, and I may have the understanding it is not intended to expand the complaint I would have no objection to them. However, if there is a possibility that they might be intended or might be used to expand the complaint or put an additional burden on the respondent I would move they go out. They are baseless nor is there anything in the complaint to which they may be related. I think an expression by counsel for the complainant would be helpful at this point.

PRESIDING OFFICER BAIN: Is your statement you made with respect to some of the other exhibits, does that apply to those situations also?

MR. MILLER: I think it obvious, Mr. Examiner, that complainant
396 cannot expand the complaint unless a proper motion is made therefor and the Examiner grants it.

PRESIDING OFFICER BAIN: Any other objections?

MR. MELNICOFF: Yes, and in one instance at least we have here the one we discussed a few months ago, where the information is garbled to the point that I don't believe it is admissible for evidence into this record. That relates to that particular exhibit.

PRESIDING OFFICER BAIN: Do you remember what number that is?

MR. MELNICOFF: No, I don't recall.

PRESIDING OFFICER BAIN: If I recall correctly, according to my present understanding, the only thing those --

MR. MELNICOFF (interrupting): Exhibit 53-B. Excuse me.

PRESIDING OFFICER BAIN: The only thing those were offered for was to show that a scale ticket had been altered by adding two drafts, no, by subtracting 25 hogs. Now, if that's the only issue with relation to that anything else on there doesn't make any difference, it seems to me. However, as I said before, if there is some letters on one of those things that doesn't spell anything or if there are some hieroglyphics that don't even equal any letters and that would be copied as an English word it would be quite a riot. I don't think the objection is good.
397 They are all admitted, 43 through 75.

(Thereupon the documents heretofore marked as Complainant's Exhibits Nos. 43 through 75 were received in evidence.)

* * * * *

BY MR. MELNICOFF:

Q. Mr. McCoy, it has been testified here that you participated in the preparation of what is Exhibit No. 1, is that true? A. I assisted in preparing this exhibit, yes.

Q. When did you begin your preparation of that exhibit? A. Well, it was started shortly after Mr. Sherman and I started working on the records at Midwest Order Buyers which would have been the latter part of January of 1957.

Q. Mr. Sherman has testified in this proceeding and you may have heard him, that he arrived in Chapin, Illinois, January 28, 1957. Does that
398 help you fix the time when you arrived at Chapin, Illinois? A. I arrived at Chapin the preceding week, during the preceding week and I worked for a couple of days with Mr. Melvin Smith, accountant from the Chicago office.

Q. Then Mr. Sherman arrived? A. Mr. Sherman arrived the following week.

Q. And how long did you stay, do you have any idea? A. I believe it was until the early part or middle of March.

Q. Do you have any records by which you could refresh your recollection more accurately, not at this moment, but sometime? A. I would have my expense vouchers which should pin it down more accurately.

* * * * *

399 BY MR. MELNICOFF:

Q. What kind of an audit were you conducting at Chapin, Illinois? A. Well, when I first went there I was told to assist Mr. Smith.

Q. Mr. M. C. Smith? A. Yes, sir. And his audit was primarily, the work we did the few days I was there was primarily financial and obtaining general understandings of the method of bookkeeping between the points.

Q. What books and records did you consult? A. As well as I recall, with Mr. Smith we looked at the, I know we made balance sheets, we made some rough copies of some balance sheets and we looked at folders on the records maintained by, the records kept on the operations of the various points. We saw just before I left, Mr. Ischer, showed us the distribution book from which Mr. Sherman and I worked a great deal later on. I believe we looked at, Mr. Smith and I looked at the ledgers, I can't remember for certain, but I know we had some, either -- we made a balance sheet, I believe, or copied a balance sheet which they had there. I believe we looked at their ledgers and their journals.

400 Q. That was all before Mr. Sherman arrived, am I correct in that? A. Yes, sir.

Q. And then Mr. Sherman arrived? A. He arrived, yes, sir, the following week.

Q. And matters took a definite different turn, is that right? A. Yes, the work was along a different line.

Q. Then you saw more records, I take it? A. Yes, sir, I did.

Q. Records in addition to what you had previously seen? A. Well, I don't know that I saw any new records. I saw a lot more of the same types of records. Mr. Hazelrigg, when Mr. Smith and I went in he showed us the different records that they kept and that were available to us and made them available to us and Mr. Smith and I looked through quite a few records, the different records that were kept there.

Q. Mr. McCoy, I will show you Complainant's Exhibit No. 32-D. Do you see that? A. Complainant's Exhibit No. 32-D?

Q. That's right. Is that one of the exhibits you say you punched? A. No, sir. That's Mr. Sherman's initials on there.

401 Q. You didn't punch that one? A. No.

Q. But you did punch some of these in this 32 series? Is that right? A. Well, I will have to look.

Q. But you did punch some of them in the 32 series? A. I don't recall.

Q. Well, will you look and see whether you punched any in this 32 series? A. Yes, sir, I did punch some of the tickets in the 32 series.

Q. You said those were punched by you at the Chapin scale? A. That's right.

Q. Do you recall yesterday I asked you why you punched, some of these were punched by you to reflect two figures, do you remember that? A. Yes, sir.

Q. Do you remember yesterday you said you didn't know why you did that? A. Yes, sir.

Q. Have you thought it over in the light of testimony that came in this morning, do you still say you don't know why you punched two sets of weights on some of those tickets? A. I still had no definite reason for punching two weights, one would have been sufficient.

402 Q. Well, does the fact that two weights appear on some of the scale tickets which were denoted by Mr. Major as a questioned document, was it possible that you punched out two weights to provide a comparison with that? A. He could very easily have used tickets with one weight punched on them. There is no difference between the tickets as far as my printing the tickets was concerned whether they had one weight or two weights printed on them.

Q. When you punched them out did you punch them out for the purpose of comparing a questioned document? A. I was told to print tickets for the purpose of checking the transactions through and possible comparison.

Q. But the idea of putting two weights on one ticket, that was your own idea? A. That was my idea and the ticket was then satisfactory, it would have been satisfactory if it only had one on.

Q. Mr. McCoy, you presented some exhibits here concerning the allegations in which it has been complained of that hogs were taken off a scale ticket and the number written, one off and so on, do you recall those? A. Yes, sir.

Q. When you made an examination of the Sparks' records you say you found sales tickets disclosing such information? A. Yes, sir.

403 Q. I suppose when you found that that conveyed information to you that that was wrong, that there wasn't something quite right about that, so you made a copy of it? A. Yes, sir.

Q. Did you at any time inquire of the Sparks organization as to the nature of the transaction reflected by such scale ticket? A. No, sir, I did not.

Q. Did you see any explanation? A. Not from the Sparks Company.

Q. Did you seek any explanation from anybody? A. Well, of course, I discussed what I found with my supervisor, Mr. Sands, and I seeked explanations by checking those, comparing those tickets with the original tickets maintained by the stockyards company.

Q. And Mr. Sands told you that what you found, that you were right that there appeared to be something in error, is that right? A. Yes.

Q. And after having your original conclusion confirmed by Mr. Sands you still didn't discuss it with anybody in the Sparks agency, in the Sparks entity? A. No, I did not.

Q. Didn't tell them there was anything wrong with them? A. No, I did not.

404 Q. Did you talk to anybody about that occurrence or any occurrence along that line? A. Well, I don't recall of specifically making a point of talking to anyone about anything like that. That may have been mentioned. I think Mr. Sparks mentioned that to me, something about changes on his tickets with some kind of an explanation of why he changed them.

Q. Did you make any note of that explanation? A. No, I don't believe I did make a note of it.

Q. You have a very hazy recollection of it now if you have any recollection at all, I take it? A. Well, I do recall that he mentioned it to me.

Q. He mentioned it to you? A. Yes.

Q. Do you have any idea of how that occurrence was taking place at all? A. No, I don't.

Q. Do you know how -- A. (Interrupting) Not specifically.

Q. Sir? A. I have no knowledge of why those specific changes could have been made.

Q. Do you know how hogs are moved off the yard, off the National Stockyard at East St. Louis, how this thing could have happened? A. I

405 know that hogs that are sold on weight, the weight is to be the weight recorded on that actual number of hogs sold and if hogs are weighed and then they are split up or some taken out then the remaining sold or those taken out sold, the ones that are sold should be reweighed so that the weight will show the weight of the actual hogs that are being sold.

Q. I guess that's right. Mr. McCoy, if you don't mind looking over here, that represents, if we may by my arbitrary designation, scalehouse 16 at the National Stockyards, all right? A. Yes, sir.

Q. Have you seen that? A. Yes, sir, I have seen it.

Q. Right alongside it is a booth of some sort, a rather long, oblong booth, is that right, windows looking into the scale part? A. This is a scalehouse.

Q. Scalehouse, good. Inside of here sits the scale, is that right, the weighman does all the weighing? A. Yes, sir.

Q. He has the various beams and the levers that manipulate that wondrous device that tells us how much these things weigh, is that right? A. He operates the scale.

406 Q. It is a little bigger than a doctor's scale that Mr. Miller talked about but it is a scale, is that right? A. That's right.

Q. Now, this is the platform here, right above this 16 and there is a gate leading in here, is that right? A. That's right.

Q. And there is a gate going off, of course? A. That's right.

Q. Hogs are driven into this gate, onto the scale, the gates are closed at both ends and then the scalemaster weighs, is that right? A. That's right.

Q. And then the hogs are led out and they come rushing off of there, do they not? A. They are taken off the scale.

Q. They go off the scale pretty much in a hurry, don't they? A. Not necessarily.

Q. Just about like people sometimes when they get on a streetcar or bus, they just run through, don't they? A. Well, not necessarily, they walk the scale.

Q. Are you talking about people or hogs, now, I got myself confused. A. Hogs.

Q. Now, at the time that they come off the scale here do you know

407 who weighs them? A. We know who weighs them.

Q. Pardon me, do you know who counts them? Who counts those hogs? A. They are counted by an employee of the stockyards company.

Q. That's somebody other than this weighman? A. Right.

Q. He counts them as they come off, isn't that true? A. Yes, that's true.

Q. And they are coming off, let's say, in a hurry or they are coming off. Now, he makes his count and what does he do with that count after he makes it? Who does he tell it to? A. I believe he records that in the yard book.

Q. And does he tell that to the weighman as well? A. Yes, he calls the count into the weigher and he puts it on the ticket.

Q. So at the time these hogs get off there we have a scale ticket which has on it, among other things, perhaps, the information about the number of hogs and how much they weigh, isn't that right? A. That's right.

Q. Let's assume that they decided, that there are 50 hogs in this count, all right, and the word 50 is on the scale ticket together with

408 whatever they weigh? A. Right.

Q. Now, where do these hogs go? Now, we are going to send these up in a truck so they go all the way down here to the truck loading dock, isn't that true? A. They may.

Q. Well, they are going right out, this is going to be a simple case. A. Right.

Q. Behind them is a driver, is there not, a man who urges them on? A. There would be a driver behind them, yes, sir.

Q. Now, does he know what the count is at that time, what the hog count is? A. Yes, I believe the driver would know.

Q. As a matter of fact, when these hogs get down here to the loading dock here and go in here, by the time they get over here he shouts out to the stockyard's man down here how many hogs he has got, doesn't he? A. I can't say whether he shouts it out or just how he relays that information.

Q. But the information is given by this man, the hog driver, to the chap who is standing here in this loading dock. We will agree on that? A. Yes, I believe that's right.

409 Q. And then this man in here counts them, let's assume that he counts 49. Could that happen? A. That could happen.

Q. So that although this man tells him that there are 50 came out of here he only got 49 down here. Isn't it possible and isn't it the usual fact that all that happened is that this man up here made a miscount? A. In that case, if the man counted right, the count of 49.

Q. And that he may count them as they come in here and he may count them again as they go out, let's assume both time he counts 49 but someone up here told him it was 50 and it is 50 on the ticket, is that right? A. All right.

Q. So that leaves, of course, that now we have 49 hogs weighing what this man up here said 50 of them weighed. As a matter of fact, the weight is the same because we haven't changed anything except the number of hogs, there has been no hog added or no hog taken off, is that right? A. In this example, that's right.

Q. Did you ever inquire to see whether this took place in any of the allegations that you are concerned with here? A. If something like that took place the weighmaster should make a correction to the ticket and he should initial the correction and the change in count should be shown on all copies and then the copy, the original copy, the change would appear on it and the carbon copies.

410 Q. So if what I have said here took place, then, everything that you have said should have been done to record this little incident we have been talking about, is that right? A. What do you mean, everything I have said, you mean the changing of the ticket?

Q. That's right, that's the way it ought to have been done? A. That's right.

Q. And if it wasn't done, all that's involved is that someone failed to do all that paper work. It isn't a case, I take it, that a man lost a hog en route somewhere? A. If it isn't done then the original copy of the scale ticket would show 50 hogs which would be correct.

Q. And if this man here should telephone Sparks or anybody else and say that there was a mistake made in the head count, change the records, is there anything wrong with that? A. Yes, he wouldn't have the -- if that man would telephone Sparks to change his ticket --

Q. (Interrupting) Yes, they made a mistake, it wasn't 50, only 49. A. Then Sparks should have his ticket changed by an authorized person and initialed who would also change all the copies.

* * * * *

412 REDIRECT EXAMINATION

BY MR. MILLER:

Q. In making the copies of the documents from the Sparks records was it your intention to reflect as accurately as possible all information appearing on such documents? A. Yes, sir, it was.

Q. You testified in response to a question by Mr. Melnicoff that you assisted Mr. Sherman to some extent in preparing the tabulation which has been identified and received into evidence as Complainant's Exhibit No. 1. In connection with your assisting Mr. Sherman did you work under Mr. Sherman's supervision? A. Yes, sir, I did.

Q. Did Mr. Sherman set up the procedure to be followed in making that tabulation? A. He did.

Q. Did you follow that procedure? A. Yes, sir, I did.

* * * * *

414 JOHN A. SANDS, JR.

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. Will you state your full name and address, please? A. John A. Sands, Jr., rural route 1, Freeburg, Illinois.

Q. What is your occupation? A. My occupation is livestock marketing specialist, U. S. Department of Agriculture. I am district
415 supervisor at National Stockyards, Illinois.

Q. How long have you been district supervisor, Mr. Sands? A. I have been district supervisor at this office for over four years. I was previously district supervisor for approximately three years at Ogden, Utah.

Q. How long have you been employed by the Packers and Stockyards Branch? A. Since 1950.

Q. As district supervisor here at National Stockyards, Mr. Sands, what in general are your duties? A. My duties are that I am responsible for the enforcement of the Packers and Stockyards Act in the National Stockyards district which consists of the southern half of Illinois and the eastern half of Missouri.

Q. Mr. Sands, will you state whether or not there are any requirements or regulations under the Packers and Stockyards Act designed to assure accurate weights? A. Yes, sir, there are. We consider accurate weighing a rather basic requirement to the Packers and Stockyards Act. That was one of the reasons that the Act was passed to insure accurate weighing at stockyards coming under our jurisdiction. The Act requires that the scales be tested, that they be installed and maintained properly, that they be operated properly by weighmasters and in compliance with
416 our regulations.

Q. Is there any regulation or requirement of the Packers and Stockyards Act, Mr. Sands, that a scale ticket be made out each time the hogs are weighed for the purpose of purchase and sale? A. Yes, sir, the stockyards company must make out a scale ticket each time livestock are weighed for sales purposes and the sale is to be made on a weight basis.

Q. In your opinion, Mr. Sands, as district supervisor under the Packers and Stockyards Act what is the importance of a scale ticket in a purchase and sale transaction? A. We consider a scale ticket a sacred document with respect to the stockyards under our supervision. Actually it is the legal document which signifies the passing of title and all settlements, that is settlements to the seller and settlements from the buyer are made on the basis of the scale ticket itself at the time of weighing. As I mentioned previously title changes hands when the livestock is weighed and we feel it is a basic document on which all livestock transactions are based.

* * * * *

417 Q. Mr. Sands, did you have occasion on or about September 14, 1955, to make an observation in the hog division at the National Stockyards with respect to the method of handling hogs belonging to H. L. Sparks & Company? A. Yes, sir.

418 Q. Will you relate what you observed on that occasion? A. On September 14, 1955, I was observing in the hog division at National Stockyards in the dealers section of the hog division. At approximately 2:40 p.m. Sparks weighed 46 head of hogs on draft No. 86 to Sparks No. 10 and they were taken back to his alley for yarding. At about 3:30 p.m. Sparks weighed 12 more hogs on draft No. 95 to Sparks No. 10. These hogs were also taken back to his alley and penned. There were some red hogs and both of these bunches weighed to No. 10, I would estimate approximately ten head of red hogs in these two weighings. I returned to the hog division on September 15, 1955, and spent most of the day in the dealers section. The hogs weighed No. 10 on the previous day were run over scale No. 16 but were not weighed. They were delivered to the stockyards company and the head count was verified. When the hogs were run over the second time or on September 15, 1955, there were no red hogs in this group. This led me to suspicion that possibly there had been a switching of hogs in Sparks alley.

Q. Did you at any subsequent time make any further observations

in the hog division at the stockyards with respect to the method of handling
of hogs belonging to H. L. Sparks & Company? A. Yes, sir. On two
occasions, one September 14, 1956, I was observing in the dealers section
419 of the hog division. I was in the Sparks alley and noticed that he had
a number of hogs weighed to numbers yarded in his alley from the previous
day. Mr. Sherman observed the previous day and his testimony will tie in
with this transaction or this testimony of mine later. We observed particular-
ly the -- or I observed particularly the 168 hogs weighed to No. 4 which
were yarded and penned, double penned No. 444 and 457. These hogs
were driven to the scale No. 16 by Paul Deems at about 10:30 a.m. The
hogs were driven over the scales without weighing. The counter --

Q. (Interrupting) What was the name you mentioned? A. Paul Deems, he is an employee of H. L Sparks.

The counter-off man at the scale verified the head count and Deems indicated to the counter-off man on the scale crew that these were run over hogs No. 4 and were to go to Miller Packing Company. I left the hog division soon after this occurred. I returned to the hog division after lunch and about 2:30 p.m. I was standing near Scale 16 with Mr. Sherman. Paul Deems came up to the scales and said to the scale crew, "I've got six rejects on Miller so I will take the small drive down and bring back the rejects." He left and walked toward the shipping division. In a few minutes he returned driving one white hog and four spotted hogs. He drove them to Sparks alley and put them in a pen. He came back with five different hogs and ran them over the scale without weighing them.

420 He told the counter-off man, five head run over to Miller, ten to
replace the five head I brought back.

Q. I noticed in discussing that observation you have been referring to notes, Mr. Sands. Are those notes that you made immediately after you made this observation? A. Yes, sir, they are.

Q. Now, is that transaction which you observed on September 13, 1956, related in any way to any of the exhibits in this case? A. Yes, sir.

Q. I hand you Complainant's Exhibits No. 17, 72 and 73 and ask if these are the exhibits which relate to that transaction. A. Yes, sir.

Q. And what do those exhibits show with respect to what you observed, if anything? A. Well, Mr. Miller, these don't cover the one I was testifying about.

Q. I'm sorry, I handed you the wrong exhibits, I believe, Mr. Sands. I now hand you Exhibits 67, 68 -- no, 68, 69 and 70. Are those the exhibits? A. Yes, sir.

Q. Will you explain in what way these exhibits relate to the transaction which you referred to, if any? A. Complainant's Exhibit No. 69
421 consists of two scale tickets taken from the records of H. L. Sparks & Company. Mr. McCoy previously identified that. Exhibit No. 68 is the original stockyard company's scale ticket covering 168 head of hogs weighed in this transaction. Exhibit No. 70 consists of the billing of these hogs to Miller. The transaction in question is the 168 head, the first one appearing on that invoice.

Q. Did you have occasion to make any other observation, Mr. Sands? A. Yes, sir.

Q. Will you state when and where? A. On October 10, 1955, I arrived in the dealers section of the hog division about 8:00 a.m. I observed the livestock yard in the dealer division and noticed that in pen 457 there was a lot of hogs. The drive ticket was on the gate and indicated that these hogs had been weighed to No. 2 the day before. There were 85 hogs in this group. I also reviewed the yarding book at scale No. 16 and it indicated that these hogs had been weighed on No. 2 on 10/8/55 and returned to Sparks pens. At about 10:00 a.m. Tom Guignon, who is a Krey Packing Company buyer, and Gene Houser looked at these hogs in Pen 457. Mr. Riley and I were talking to Paul Deems at the time. After they finished looking at the hogs they turned them out in the alley. They then went down to a pen in the lower end of Sparks alley and sorted
422 several hogs out and drove them in with the hogs from 457. They then sorted several hogs from the group in the alley and the hogs that had been in pen 457 and drove the hogs back to pen 457. The hogs sorted

off were penned in the lower end of Sparks alley. We were standing in the east alley of the dealers section about one row of pens from where this occurred. We were not able to determine exactly how many hogs were switched but it was about five head.

Q. I hand you Complainant's Exhibit 74 and 75 and ask whether or not these exhibits cover the transaction which you have just described? A. Yes, sir, they do.

* * * * *

CROSS EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Sands, you described an occurrence that took place on September 14, 1955, is that right? A. Did I describe it?

Q. Yes, sir. A. Yes, sir.

Q. Is that reflected in the Order of Inquiry in any way? A. Yes, sir, it is the second transaction in No. 7 and we made an error, a typographical error and indicated 56 and that was changed this morning.

423 Q. And then the occurrence of September 14, 1956, that is a part of the Order of Inquiry, is that right? A. Well, it is alleged in the Order of Inquiry September 13, I believe, I can check. But the initial weighing was on September 13, 1956, and that's the, that would be Mr. Sherman's observations of the initial weighing of that livestock.

Q. That transaction is reflected in the Order of Inquiry, is it? A. Yes, sir.

Q. That's also in paragraph 7? A. Yes, sir.

Q. And the third transaction of October 10, 1955? A. Yes, sir.

Q. That's also reflected in the Order of Inquiry, is that right? A. Yes, sir.

Q. You saw all three of these occurrences take place, is that true? You personally viewed them, did you? A. I have testified from my notes of the occurrences that took place on those dates.

Q. Well, that isn't the question. Did you personally observe these occurrences? A. Yes, sir, I personally observed what I testified to.

424 Q. That's right. And in the case where you saw the hogs move from one pen to the other, substitution, you saw that happen? A. Yes, sir.

Q. It took place right before your eyes? A. Certainly.

Q. And then you saw the consummation of the transaction, so you say, that is, the hogs were then moved off the yards eventually, isn't that true? A. I saw the hogs moved off of the yards.

Q. Yes? A. I don't follow your question.

Q. Well, where were the hogs when you saw them? A. On which transaction?

Q. Let's take any one you want. Take the October 10, 1955. A. Well, the hogs on this date were in Sparks alley.

Q. And you saw the substitution taking place right before you? A. Yes, sir.

Q. As supervisor of this yard were you in a position to stop that movement at that time? A. Was I in a position to stop it?

Q. That's right, could you have directed anybody to stop moving those hogs in there, that that was wrong? A. I doubt that I would have the authority to actually impound the hogs or anything of that type.

425 Conceivably I could have but we were in the process of conducting an investigation approximately a year prior to that time which we had first noticed this practice and we were in the process of developing the facts to see what they were.

Q. So you saw this violation committed right before your eyes and did nothing about it? A. That is true.

Q. And you permitted it to go on? A. I didn't permit it to go on.

Q. You didn't stop it? A. That's right, I didn't.

Q. You could have stopped it? A. I could not, I did not testify that I could have stopped it. I said we were in the process of conducting an investigation of it to develop the full facts as to what was taking place.

Q. Well, what other full fact was necessary for you to find out that took place at that particular moment? Wasn't the violation, if it was a violation, all complete and concluded when those hogs made the movement that you just testified to? What else did you need? A. Well, certainly we were attempting to develop whether it was a practice or an isolated instance.

426 Q. What difference did it make whether isolated or a practice, it was a violation at that moment, was it not? A. Well, a lot of things are violations.

Q. I'm not asking you about a lot of things. A. In my estimation it is a violation.

Q. But it didn't fit your practice to stop it at that moment because you were conducting an investigation, is that true? A. That is correct.

Q. And you would have warned Mr. Sparks if you mentioned it, he would have known you were conducting an investigation? A. Are you saying I should have told Mr. Sparks I was investigating him?

Q. I am asking why you didn't stop that right at that moment. A. And I told you.

Q. Do you deny that you had the authority to stop it? A. Do I deny that I had the authority to stop the switching?

Q. That's right. A. I don't know of anyplace in the Act that I have been given that authority.

Q. You don't know, so that you are ready to stand here now and tell us that you can witness an actual switching and you have no authority to stop it? A. No, sir.

427 Q. You say you can't find it in the Act so do you have the authority? A. Well, I don't know whether I actually have the authority or not, I don't know of any specific authority in the regulations of the Act itself that specifies I have authority to impound anything.

Q. I'm not asking you about impounding. A. To go and say you can't sell these hogs to anybody because they are switched hogs in there, there is certainly nothing in the Act specifically dealing with that type of a thing.

Q. So in your position now as a supervisor of this large market, and you were supervisor of another large market before this, you tell me now that you know of no authority in the Act which forbids you, which permits you, rather, to stop the commission of a violation which occurs right before youreyes, you haven't got that authority, is that right? A. Are you saying I don't have the authority to stop a violation?

Q. I'm asking you whether you have it. You tell me, you said you didn't. A. I don't know of any specific authority in the Act that states that I do not have, that I have the authority to stop switching of hogs.

428 Q. In other words, it is your statement now that you can observe the switching of hogs under your supervision and you can't stop them? A. No, sir, I didn't say that I couldn't stop it.

Q. Well, can you stop it? A. It is an unfair trade practice.

Q. Can you stop it? A. Well, certainly we are attempting to now.

Q. Can you stop it at the time of the occurrence? A. By the Order of Inquiry we are hoping to stop it. We hope to secure sanction for this type of practice. This is the procedure we chose to follow in handling this specific investigation.

Q. But you have to stand by there and watch that switching take place? A. That's our duty to observe, familiarize ourselves with the yards and observe exactly how the transactions are consummated, take place, we make observations daily to familiarize ourselves fully with the yard and we make notes of anything of a nature which we feel bears watching. Certainly we do not feel we are in any way compelled to lay our investigations in front of anybody while we are making them. We are there to investigate and to see what are the facts without the full facts and after they are developed then we make our determination as to what should be done.

429 Q. You make notes, don't you? A. Sure.

Q. A lot of note, you have got some notes now, haven't you? A. Sure.

Q. That's right. There is no question about the authority you have to make notes? A. Not that I know of.

Q. I mean you make them now because you have the authority but you don't have the authority to stop the man from switching livestock as you understand. I want that answer in this record and I want it in here fair to you? A. Well, what authority do you think I have.

Q. Mr. Sands, I haven't got the slightest idea. A. I have repeatedly testified there is no specific authority in the Act for me to impound the livestock and say you cannot sell the livestock on this basis.

Q. Well, Mr. Sands, I am going to say this. This record is going to show that for the number of pages you and I have been talking that I have been desperately having you answer me one simple question, whether or not you have the authority of switching hogs and I haven't got the answer. Now, you may think that you are avoiding the question -- A. (Interrupting) I am not trying --

Q. (Interrupting) Just a minute, but the fact remains the question 430 hasn't been answered. I am quite willing to leave it right there if you are. I am giving you the opportunity once more to answer my question. Do you have the authority to stop the switching of hogs which occurs right before your eyes and in your immediate presence? If you desire to answer or if you are satisfied with the answer, tell me and we can go on to something else. A. I see nothing in the Act that gives me the authority to impound hogs.

Q. Have you ever asked Mr. Miller if you have that authority? A. No, sir, not that I know of.

Q. I mean Mr. Miller, counsel for the government here. A. I don't believe so.

Q. Did you ever ask Mr. Bowman about it, Mr. Lee Sinclair? A. Have I ever asked them if I had authority to stop switching of hogs?

Q. That's right. A. I don't recall.

Q. What's that? A. I don't recall having discussed it with them, no.

Q. You said a scale ticket, in your wording, was a sacred document, is that right? A. In my estimation it is.

431 Q. You said it had something to do with the transfer of title, is that right? A. That is correct.

Q. Of course, transfer of title is a legal question and I don't know why I don't object to you giving a legal conclusion but I didn't. A sacred document, you say, which signifies the weight of the animal as it goes across the scale, is that right? A. I didn't understand your question.

Q. It is a sacred document which testified to the weight of the animal as it goes across the scale? A. Yes, that's correct.

Q. Of course, it is a much used piece of paper, is it not? A. In what respect?

Q. As a scale ticket, it is used as a scale ticket, it is used many times? A. I don't know what you mean by many, but it is first, of course, used when the weighmaster imprints the weight. The commission firm uses their copy and if it involves a farmer sale of hogs or planted livestock to complete their account of sale and, of course, the buyer is billed on the basis of his copy. I wouldn't call it a much used document. It denotes one single transaction and it deals with that specific transaction
432 and one ticket. It wouldn't be used but once.

Q. Yes, that's true, but many scale tickets are used during the day? A. Oh, yes, I didn't understand you. Many scale tickets are used, yes.

Q. About how many do you suppose they use during the day? A. At National Stockyards?

Q. That's right. A. Well, of course, that's entirely dependent upon the number of livestock they have for sale there and it would be very difficult to give you a specific number. I'd say thousands are used a day. One scale would have three or four hundred tickets conceivably.

Q. How many persons are there employed by the stockyards who are concerned with the making and using of scale tickets by persons moving livestock off and onto the stockyard? A. I'm a little bit hard of hearing. I didn't hear the first part of your question.

Q. How many men and women do you suppose are concerned, employees of the stockyard, how many of them are employed with the weighing of livestock which results in the use of a scale ticket? A. As I understand your question, how many are employed as weighmasters?

433 Q. Well, we will take it from that, perhaps that's clearer, yes. A. Well, there is probably twenty or thirty employed as weighmasters. They have some extra weighmasters and regular weighmasters and I'd say probably thirty employees from time to time do weighing.

Q. Now, you have already indicated to me that although you observed these three specific instances which are reflected in the Order of Inquiry and that in each instance, as I understood it, Sparks' personnel was in the immediate vicinity, you did take no steps to inform them that this constituted a practice that was frowned upon and that was in violation of the Act and the regulations as you understood it, is that right? A. That's right.

Q. Did Mr. Sparks ever talk to you at any time since you have been on this stockyard? A. Yes, sir, he has.

Q. He drops by to see you once in a while? A. He is in our office occasionally, yes, sir.

Q. As a matter of fact, we might say he was there frequently, wouldn't you say so? A. He drops in for market reports and frequently is there, yes.

434 Q. Does he ever give your office any market reports? A. I don't know, sir.

Q. You don't know. Do you remember any correspondence that you have had with him within the past three months concerning the visits to your office and the exchange of reports? A. Well, I do recall the one letter that we did write him, yes, sir.

Q. About when was that, please? A. I don't recall its specific contents but it was in compliance with a more or less of a request of the market news people and it dealt, as I remember, I'm testifying strictly from memory, my memory may be hazy as I hadn't thought of the letter since I mailed it, but it was to settle a dispute that the giving of certain information, as I recall it, was number of head and average cost and maybe average weight, I'm not certain of his livestock purchases for the day, giving that information to the market news service which is also an agency of the Department of Agriculture, in fact, a branch of the livestock division in the office with us there, giving that information to them would not constitute a violation of the Act. They requested the letter.

Q. When I used the word exchanged information I had in mind that he got some information from your office or rather from that suite in which your office is located and in turn he got some. That's all I am trying to bring out. A. Well, I presume he does furnish the market news service

435 information concerning it, I don't know now, but that's a different agency and certainly we are not directly involved in any way with them. They wanted it clarified that his acts for years and continued acts would not be considered a violation, that's all.

Q. This market news agency you talk about, that's a part of the Department of Agriculture, isn't it? A. Yes, sir.

Q. So is the Packers and Stockyards Branch? A. That's right.

Q. So he is in and out of your offices frequently, every day, as a matter of fact, is he not? A. Oh, I guess so, I don't recall. I mean, he is in there like all the other members of the trade, they come in for this market news report and it is possible, perhaps, to pass the time of day with them.

Q. He is an easy man to talk to, isn't he? A. You mean by easy, casual conversation?

Q. That's right. A. Yes.

Q. Everybody knows him as Harry, don't they? A. As far as I know they do.

Q. Most people call him by his first name? A. Yes.

436 Q. He likes to talk, doesn't he? A. Sure.

Q. And he does talk, doesn't he? A. Yes, he talks.

Q. Did he ever ask you to instruct and tell him how he should improve his business practices if they weren't in accord with what he believed was the proper way it should be done? A. Well, he probably has, I don't remember any specific instance.

Q. You can't recall him ever asking you? A. Not prior to the issue of the Order of Inquiry. He has since that time but I can't pinpoint any specific instance.

Q. Are you willing to now state that subsequent to the issuance of the Order of Inquiry in October 1957 that he asked you to tell him how he was making his mistake or if he wasn't how to do it right? A. I don't remember when the Order was issued. Yes, October 10, that's right. I don't recall of any times prior to that at all. In fact, I don't think we even discussed it to any extent before that. After that he did and certainly we have attempted to tell him.

Q. You have attempted. What have you attempted to tell him? A. Well, answer his questions.

437 Q. Like what? A. We always answer their questions.

Q. What did you tell him -- A. (Interrupting) We are not secretive about the way we operate in any sense of the word.

Q. What did he ask you about some advice and what advice did he ask of you and what advice did you give him? Can you recall anything since October 1957, could we confine it to that period? A. Pardon me, what was your last statement?

Q. Since October of '57, when the Order of Inquiry was issued? A. Well, I think we discussed the switching there and I told him that that definitely was improper. He asked about it and I told him it should not be done.

Q. Anything else? A. We probably discussed other things. I think we discussed the matter at Chapin that the audit disclosed, about the adding of weight and such as that.

Q. Has he ever made any suggestion to you about how the market might be improved in its operation? A. Well, he is full of suggestions, yes, sir.

Q. Has he ever made any - A. Yes, sir, he makes them to everybody.

Q. Have you ever seen fit to accept any of them in any weight, that 438 is, not necessarily putting them into operation but to consider them? A. Well, I don't remember anything specifically, but as I said, he is talkative but I don't remember anything specific that we have adopted that's been his idea.

* * * * *

REDIRECT EXAMINATION

BY MR. MILLER:

Q. Assuming, Mr. Sands, that you observe hogs being switched when they are being loaded out of the stockyard do you have any authority to put a stop order on that shipment? A. No, sir, I do not.

* * * * *

RECROSS-EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Miller asked if you had authority -- suppose you saw hogs being switched while they were still in the stockyard from one pen to another, would you have that authority to issue a stop order? A. I have no authority to issue stop orders or impound hogs or anything.

Q. I asked could you stop it? A. No, sir, I do not have the power
439 of arrest and I think I would have to have that to probably stop things of that type or specific authority from the secretary to impound the livestock, seal the gate which I do not have.

* * * * *

EARL W. SHERMAN

was recalled as a witness, and having been previously sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. Are you the same Mr. Sherman who testified earlier in this proceeding? A. Yes, sir.

Q. Mr. Sherman, during 1956 did you ever have any occasion to make any observations of the hog division of the stockyards with respect to the method of handling hogs owned by H. L. Sparks & Company? A. Yes, I did.

Q. Will you state the time and place of your observation and describe what those observations were? A. On September 12, 1956 --

440 Q. (Interrupting) Incidentally, did you make notes at the time you made your observations? A. Yes, I did.

Q. And do you have those notes with you? A. I do, I have them before me.

Q. You may proceed. A. On September 12, 1956, I went up to Sparks alley about 8 o'clock in the morning and noted that he had three lots of hogs, each penned separately which had been weighed to numbers on the day before, September 11, 1956. These lots were weighed as follows: To No. 15 there were 75 hogs, to No. 16 there were 87 hogs, and to No. 17 there were 63 hogs.

MR. MELNICOFF: I'm sorry to interrupt but I am going to have to move to strike those parts of the witness' answer where he relates to something that hasn't been weighed unless these sacred weigh tickets are introduced to substantiate them.

THE WITNESS: They are already here.

MR. MELNICOFF: If they are tell me about them.

THE WITNESS: They are in evidence.

MR. MELNICOFF: Are they in the record, Mr. Miller?

MR. MILLER: Yes, sir.

MR. MELNICOFF: I withdraw the objection.

PRESIDING OFFICER BAIN: All right.

441 A. (Continuing) Sparks didn't buy many hogs on the 12th and these three lots were not bothered all morning except once when Paul Deems and Gene Hiser --

BY MR. MILLER:

Q. (Interrupting) Who are they? A. Two employees of Mr. Sparks.

(Continuing) -- run them out in the alley and back in the pens to count them. Later that day about 2 o'clock Paul Deems and Gene Hiser came to the pens and Gene Hiser remarked to me never satisfied, always one off and one on and then he and Deems cut one hog out of lot No. 15 and one out of lot No. 16 and put them in another pen. They then got two small white hogs out of another pen and put one of each of these two in with Lot 15 and 16. They then got a small Hamshire hog out of Lot 17 and replaced it with another hog. These hogs were all apparently

purchased by Krey and Tommy Guynon came up and asked them to hold these three lots, to hold them until they were ready for them as they were out of pen space in the shipping division. I looked at the drive tickets and the drive tickets had been marked Krey by someone during the day. Late in the evening these three lots were run over the scale without weighing for head count and Krey received them as being the same hogs at the same weight as were weighed to the numbers 15, 16 and 17, on 9/11/56, even though three of the hogs, one in each lot, had been switched
442 the following day --

Q. (Interrupting) Just a moment, please, Mr. Sherman. I hand you Complainant's Exhibits 65, 66 and 67 and ask that you examine them and state whether or not these documents are the documents covering the transaction about which you have just testified. A. Complainant's Exhibit 66 and Complainant's Exhibit 65 are original scale tickets on which the three lots of hogs were weighed on 9/11/56. Complainant's Exhibit 65. No. 66, of course, is a copy of scale tickets as found in Sparks records as introduced by Mr. McCoy.

Q. And is Complainant's Exhibit 67, does it show how those hogs were billed to the Krey Packing Company? A. It shows the same three lot of hogs on the invoice.

Q. Did you make any other observations, Mr. Sherman, and if so, will you describe when and where and what you observed? A. On the following day, on September 13, 1956, I spent the entire day until 5:30 in the evening, in the dealer division of the hog house and observed Sparks weighing during the day. During the day they weighed six lots of hogs to numbers and took them back to their alley. These were weighed and penned, 69 head weighed to No. 1 penned in Pen 445. Five head weighed in No. 2, penned in pen No. 449. Two head were weighed to No. 3 and they were penned in a double pen which is numbered 442 on one end and 455 on the
443 other. There was 168 hogs weighed to No. 4 and they were penned in a double pen which is numbered 444 on one end and 457 on the other. They weighed 11 hogs to No. 5, they were penned in Pen 438, and they

weighed 12 sows to No. 6 and they were penned in pen No. 450. I stayed until 5:30 and I left the hog house at the same time Gene Hiser left. The six lots of hogs had not been disturbed at that time. I didn't go back to the hog house until the next day. But Mr. Sands went out in the morning about 8 o'clock. I went out at noon to relieve Mr. Sands. Later Mr. Sands returned for lunch and at about 2:30 Paul Deems came up to the scale and said "I got five rejects on Miller so I will take this small drive down and bring back the rejects". He left and went towards the shipping division. In a few minutes he returned driving one white hog and four spotted hogs. He drove them up to Sparks alley and put them in a pen. He then came back with five different hogs and run them over the scale without weighing them and told the counter five head run over to Miller, ten, to replace the five I brought back. These 168 hogs were shipped to Miller as being the same 168 hogs at the same weight as they were weighed to No. 4 on the previous day even though five head in the lot had been switched. Mr. Sands and myself were both present at this time.

* * * * *

454 MR. MILLER: I might say in connection with that, Mr. Examiner, that complainant has decided no evidence directly relates to paragraph 8, 9 and 10 of the Order of Inquiry and therefore has no objection to striking such paragraphs from the Order of Inquiry.

PRESIDING OFFICER BAIN: All right, sir.

* * * * *

JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),
Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,
Respondents.

Vol. II of 4 vols.

Pages 335 thru 590

United States Court of Appeals
For the
District of Columbia Circuit

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UNITED STATES COURT OF APPEALS
For The District of Columbia Circuit

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456 **JOSEPH H. GILBY**

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Will you please state your name? A. Joseph H. Gilby.

Q. What is your occupation or business? A. I am a certified public accountant, I am a public accountant of practice, I have department management engineers in my concern, I have offices in Chicago, Omaha, on the stockyards, I did have offices in Washington, New Haven, New York. I have been in this business since 1923 continuously.

457 Q. Where is your office, the address? A. 105 West Adams Street, Chicago.

Q. Mr. Gilby, would you please give us a brief resume of your education and training stressing, if you will, if it is a fact and I know it is, your association with stockyards and stockyard training and activities? A. I would have to go a long way back. My first job, when I got out of the college in Toronto, Canada, I came over to Chicago, joined my parents here and was with the Morris Company, the largest packer at that time. I went through all the offices of the departments of Morris Company and finally reached the executive division of the company. I was sent abroad to resurrect, I guess you would call it, all the enterprises in Europe and South America after the first world war. This took me a period of a year and a half, more than that, because I spent six months more in South America, that is two years. Prior to that they thought my abilities were such they sent me to China, loaned me to H. J. Keith & Company since they were stockholders in that enterprise in China, and I put, for example, the brake plant on its feet, I was there not only in Shanghai but all over the Orient for 18 months.

Then when I came back I was again sent to Europe in connection with their tax matters and other organizational matters in Europe. That

458 was another six months. At that time I left Morris & Company by

invitation and became associated with Arthur Anderson & Company.

A year and a half, I guess, transpired and I was invited to take another position, not a related enterprise, but taking this other position, I was allowed to establish my own business which I did. I feel quite proud that I was able to enter the accounting field in competition with those already established, large concerns and I have been in it ever since.

My association with Arthur Anderson was broken up mutually in this way, that I was called into a certain attorney's office in Chicago and was asked to take over a certain tax problem. I said I couldn't do that because I had associations with Arthur Anderson, he said you go to Arthur, both Arthur and I knew this fellow pretty well, and see what he says about it. So I did and Arthur said yes, that is part of Arthur Anderson & Company, you handle it personally, which I did, and we were successful and not long after that I was invited to this attorney's office again and I was offered the position with the concern that I had handled the matter for which, of course, I wasn't ready to take except that in consulting Arthur, he says, "Well, Joe" -- excuse me, the name Arthur was used -- "let's give them an offer they will turn down". I said "All right, Arthur, you will have to state what the offer is because
459 I don't want to take it", but it turned out they took it. Consulting Arthur again, he said "Well, Joe, it was our offer, so I had to take the position and I was fortunate in that because it permitted me to establish my own firm.

I have been interested in packing houses all over the world and in connection with that, of course, stockyards and stockyard operations, and I have done work for so many years, people with the livestock business, on stockyards and off stockyards for packing house concerns here and elsewhere that I feel that--I think they do, too--I am quite an authority on it, the plan of operation. Well, as far as education is concerned, do you want to know something on that?

Q. Just briefly, Mr. Gilby. A. I first went through Ontario, that is Canada, the school system up through collegiate institutes. At the

same time I attended the Toronto technical school, I was going to be a civil engineer, at least I moved over to the states, I was quite an architect, was turned loose on appraisals and would bring a different result than what the appraisal showed. When I became, or came to Chicago and became an employee of Morris & Company I used my notes, getting married in the interium, but I still went on in Armour Institute but when I became aware that civil engineers wasn't my objective, why, I quit the Armour Institute, but shortly after I learned that the universities
460 were establishing departments of commerce, business administration. I attended the meeting on West Adams Street where presidents of the nearby universities were meeting trying to get some basis for bringing into being the commerce schools. I learned there that Illinois already had in session classes and at the time the president was Dean Hotchkiss and he had been given the task by Northwestern University to see what could be done with respect to the establishment of schools at Northwestern University. Another man whom I know very well was at the meeting and before Hotchkiss got through he told me there was a class in session at the Old Treemont House on Lake Street that very moment. We left the meeting and spent the rest of the evening at the class session and joined whatever was present at that time at Northwestern University.

From there I went on to become the first graduate of the school of commerce. Then, of course, I have given you my travels which took me away from this country, but before I left this country, I was invited to join the faculty of Northwestern University. There was an interim there that I was away and I couldn't carry on that duty but on my return I was again asked to join the faculty. My work was lecture work principally and, of course, the experience that I had at Northwestern University and on the faculty I wouldn't give up for the world nor would
461 I give up the experience I have had, practical experience, when you were in Europe and China and South America you couldn't appeal to anybody in the United States for direction or anything else, you did what you thought you had to do and suffer the consequences after. There was no consequences so I guess I did all right.

Now, in the interim I spent five years in the university, Kent College of Law, there were more attorneys on the law association, I guess than anybody in that area, and I got my LF degree. I don't practice law, never attempted to, but I feel that degree and work I had to put in rather enables me to sit in with attorneys and understand what they are talking about, I found it to be the case. I don't know whether I need go on or not but that is the basic--

Q. (Interrupting) Just to point out one or two things you have stated you are a certified public accountant? A. Yes.

Q. You are licensed in the State of Illinois, I take it? A. I have a degree from the University of Illinois which issues the CPA degree in Illinois, yes.

Q. And what year was that obtained, if you recall? A. In 1913, No. 51 certificate.

Q. In 1913? A. Yes.

462 Q. And you have practiced as a CPA continuously since that time? A. Yes.

Q. And, of course, you are now a credited CPA, you have maintained your right to practice? A. As I said, my own business in '24.

Q. I see, yes. Now, just give us, if you can, approximately how many years you have been associated with the stockyard business? A. Since 1944.

Q. And have you indicated generally what your association has been up to now? A. Yes, except I didn't stress what connection I had with the stockyards or livestock concerns operating in the stockyards.

Q. You did not say? A. No, I just mentioned the fact that I did.

Q. Will you give us some explanation of that? I think that would be helpful in that record. A. Well, the operations of the agricultural department were in the infancy at that time. We had problems of organization and that was principally what I handled in the first place and I put together various partnerships and corporations in their operations on these yards and eventually, so much of it I had to do that I actually established an office on the Omaha yards and, I guess, the phase of the

463

operations on the stockyards that I am not acquainted with through my organization.

Q. Is it fair to say, then, your association of stockyard activities dated in 1921, the year in which the Stockyards Act was first enacted, is that right? A. You mean before that, before that I was in the packing business?

Q. That's right. A. Yes.

Q. Before 1921 you were in the packing business, is that right? A. Yes, sir.

Q. And you have continued that profession ever since, is that true? A. Yes.

Q. Now, would you give us, if you will, when did you first become associated with any of the Sparks entities which are named in this proceeding? A. I knew Mr. Harry Sparks, oh, back in '24. He was then an employee on the stockyards with the dealer and also with a commission firm. Mr. Sparks left that particular organization, I was very well acquainted with his background there. Then, I think it was in '46 or '47 Harry thought he wanted to get in touch with me, remembering our previous association, so he asked me to come in and help him in his organi-
464 zation and whatever was necessary under the circumstances. My concern had interest in his accounting and everything that pertained to office procedure and, of course, it went beyond that because he knew my experience, he knew how well I was versed in the subject. That relationship has lasted ever since.

Q. Now, as I understand it, did you establish the various Sparks entities which are registered on the heading of the posted yards? A. Yes, I established the form of procedure or the organization at that time. I know he was on the St. Louis yards.

Q. What are the official names of the Sparks entities which are registered on any posted yard subject to jurisdiction of the Secretary of Agriculture prior to its amendment of September 2, 1958? A. You are only asking registration now?

Q. Yes. A. H. L. Sparks & Company were registered on the St. Louis National Stockyards in East St. Louis. National Stockyards is a city in itself.

Q. All right. A. Then later H. L. Sparks & Company of Peoria, Illinois, we have H. L. Sparks & Company of Bushnell, Illinois, and we 465 had, then later, when he moved to the Springfield post market, H. L. Sparks & Company of Springfield, Springfield, Illinois. The Bushnell Stockyards Company was established in the Bushnell stockyards. These are the only ones except, I ought to say this, that some of these were organizations before I became interested and were still partners in these organizations for some years after I became interested. For instance, the stockyards at Bushnell, Illinois, and Midwest Order Buyers, Harry was a partner with other partners, those partnerships carried on for considerable time, they were partnerships until a man by the name of Hubbard died, a man by the name of Odum died, these were partners and Harry had to find some way of continuing those partnerships. It became such a proposition that he couldn't trust anybody and I know that, so at my suggestion, Rex Wanda Sparks, she is quite a business person, became partners in these partnerships, continuing and H. L. Sparks & Company, National Stockyards, Illinois, Joe Sparks with Rex as guardian, became partners way back before I became interested in this. He was three years of age at that time and that partnership was carried on until quite recently in this period. I endeavored to keep them as entities because we had these various partners involved which we successfully did and we are still entities except the H. L. Sparks & Company of Springfield and the reason that that isn't existing as such today is because we left the most of the market, I think that was about October of 466 '56, and we are now located in the yards of our own concentration point--

Q. I am not interested in that location now. Is it true that each one of the entities that is registered on the posted markets has its own distinctive name and title? A. Yes.

Q. Each one is a partnership, is that true? A. That is correct.

Q. Is it true that the partners in the various posted entities have changed from time to time through the years both before your associations with it and after? A. Yes, not too often.

Q. They do change? A. Yes.

Q. Separate books and records are kept by each entity? A. That's right.

Q. And their operations, day to day, total are separate in every respect? A. That is correct.

* * * * *

MR. MELNICOFF: Mr. Examiner, you will recall at an earlier 467 session we identified Respondents' Exhibit 3, a certain letter dated January 14, 1957, which was prepared and signed by Mr. Gilby the witness now on the stand addressed and sent to Mr. Hopper, G. H. Hopper, district supervisor, Packers and Stockyards Branch, Livestock Division, Chicago 9, Illinois. At this time I wish to offer into evidence the exhibit which has been heretofore identified as Respondents' Exhibit 3.

PRESIDING OFFICER BAIN: Any objection?

MR. MILLER: It is agreed this particular letter, Respondents' Exhibit 3, was received by Mr. Hopper, district supervisor of the Packers and Stockyards Branch of Chicago on April 17, 1957. It being understood, of course, that any statements contained in such letter are the statements of Mr. Gilby.

PRESIDING OFFICER BAIN: Right.

* * * * *

(Thereupon the document heretofore marked as Respondents' Exhibit No. 3 was received in evidence.)

468 BY MR. MELNICOFF:

Q. I hand you now what has been received in evidence as Respondents' Exhibit 3 and I now hand you Respondents' Exhibit 2, for the sake of the record No. 2 is dated December 1956 and Respondents' Exhibits 3 is dated January 14, 1957. Do you have those two exhibits before you? A. I do.

Q. Now, will you relate the incidents and circumstances surrounding this exchange of correspondence? A. Prior to the end of 1956 there appeared a Mr. Smith in my office in Chicago. He had been at the Bushnell stockyards, I can't answer whether he had been to Peoria but these are posted markets, and he was making an audit as they usually do, not once a year but periodically they come in and audit the books and whatever other things they have to do. Mr. Smith asked to see statements by way of these markets and after they were shown to him, perfectly free to show them to him, he asked to see the statements of the markets that were not posted. I said he wasn't authorized to look at them and refused to show them to him. He also appeared, as I understand it, at Midwest and could not see them. This letter says Mr. Smith cannot complete his audit unless he is given permission, his objective, so he told me, was to look at our records and determine whether we were financially sound. Well, I discussed the matter with Mr. Hopper in his office, we had several discussions. Finally I said, "Mr. Hopper, I don't want Mr. 469 Harry Sparks to get involved in an expensive move here. Do you mean if I get Harry to volunteer to let you see our financial records?" That was relative to what Mr. Smith was wanting and he said, "Oh, Mr. Gilby, that would be fine if you could do that". So I got permission and then I confirmed that with a letter you found here and the terms on which that permission was given are all stated in this letter of December 17, 1956. No, wait a minute, it is the other one, the letter of January 14, 1957. Mr. Smith did appear at Champaign, Illinois, that is the office of the Midwest Buyers, and proceeded to do the work that I thought he was permitted to do. Then we finally, not in letter form, he stated that "Thank goodness, you are financially sound". Now, that was the extent we got anything out of Mr. Smith. This letter here says we hope to get some constructive suggestions through the work these boys would do by permission of this letter. They continued to work there, what they were trying to do seemed to me was way beyond what they were granted they should do and we preserved all our rights under the circumstances. They still continued and I found in a period in other country places, I told Mr. Hopper "If anything more on this happens you will be thrown out, this isn't in accordance with our agreement". Again, Mr. Hopper didn't seem to have any control over it at that time, he must have been moved to 470 some other office, at least instructions were coming from East St. Louis then, National Stockyards, Mr. Sands' office. Mr. Sherman appeared, Mr. McCoy appeared on there, as I understand Mr. McCoy was there before Mr. Smith left. Mr. Sherman appeared, I don't know what they were doing, I don't know but what I should have shut them off at that time but--do you want me to go further?

Q. Continue. A. I protested to Mr. Hopper and on some things I protested to Mr. Sands but I never got anywhere. Eventually they did cease doing their work in Champaign, that is as much as we knew about it until we had the Order of Inquiry.

Q. Is this correct in that the inquiry began sometime shortly before December 17, 1956? A. Yes.

Q. And that was an inquiry confined to the posted yards, is that right? A. No.

Q. Before December 17, 1956? A. Before they were given this permission?

Q. Yes. A. Yes.

Q. You have indicated in this letter of December 17, 1956, they wished to go into country point, at that time you protested that move into country points? A. Yes, I did.

471 Q. And you entered into negotiations with Mr. Hopper, is that right? A. And then you have this letter of December 17, 1956, Respondents' Exhibit 2, which was given to you to make a reply to, is that right? A. Yes.

Q. And before making that reply you discussed this again with Mr. Hopper? A. I did.

Q. And then confirmed your understanding with Mr. Hopper in your letter of January 14, 1957, Respondents' Exhibit 3? A. That's right.

Q. And that is the only understanding you had with Mr. Hopper? A. Yes.

Q. And the only circumstances under which you would have permitted anyone to go into these country points, is that right? A. That is true.

Q. If you had any information in terms laid down by your Exhibit 3, January 14, 1957, you would have protested further? A. Yes.

472 Q. You would have taken necessary legal action to protect your rights? A. That's right.

Q. Did you ever get any response from Mr. Hopper to your January 14, 1957 letter? A. No.

Q. Did he ever tell you anyway your understanding is not right? A. Not in agreement with the facts, no, except I protested, he didn't say anything.

Q. Did he tell you, know what your understanding was and he was going ahead? A. He did not.

Q. And you always understood from him at all times the agreement was expressed in your letter to him on January 14, 1957? A. That is correct.

* * * * *

BY MR. MELNICOFF:

Q. Mr. Gilby, I hand you a series of exhibits which I shall ask the Examiner if he will please, to mark them as follows: Respondents' Exhibit No. 5--pardon me, No. 4, St. Louis Independent Packing Company, as Respondents' Exhibit 4 for identification.

(Thereupon the document above referred to was marked for identification as Respondents' Exhibit No. 4.)

MR. MELNICOFF: The next one is Hunter Packing Company, Exhibit No. 5. These are all for identification, of course.

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: And the next sheet, Kingan and Company, No. 6; Oscar Mayer, No. 7; Van Decker, No. 8; John Morrell & Company, No. 9; Heil, No. 10; Home Packing Company, No. 11; and Swift & Company, No. 12.

PRESIDING OFFICER BAIN: They will all be so marked.

(Thereupon the documents above referred to were marked for identification as Respondents' Exhibits Nos. 5 through 12.)

BY MR. MELNICOFF:

Q. Mr. Gilby, I herewith hand you the exhibits which have just been marked by the Examiner, Respondents' Exhibits Nos. 4 through 12, inclusive, and ask you to tell us what they are, if you know, and it may well be--

MR. MILLER (interrupting): If the Examiner please, I don't know what the exhibits are, I haven't a copy nor have I seen a copy.

474 MR. MELNICOFF: I was on my way to rectify it. Here is a copy of the exhibits. Would you give me my last question, please? (Question read.)

BY MR. MELNICOFF:

Q. If you will give us your explanation for 4, for example, that would suffice for all of them. Would you please identify those exhibits, please? A. Based on the Order of Inquiry, four and the list of the items enumerated, this analysis is made up. We have separated the exhibits so that each company involved will be together, meaning by company is the packer to whom the shipment is made. For instance, I have before me the St. Louis Independent Packing Company, next I have the Hunter Packing Company and so on, and you will be able to identify them by the date that is shown on this Order of Inquiry. Exhibits are made up to show the whole transaction as reflected by the Midwest Order Company's books. For instance, all of these exhibits will be headed. First, we show the date at the top of the page and along the top, heading the columns, first we have the head shown and then we have the weight shown. Next we have the history of what part of that that is in two, or in one and two, showing the history of stock from any posted market to Midwest showing the cost and the invoice to the packer.

The next column, this only deals with weights, no money is involved

475 on these statements because weight is the thing that is involved. Next we have country points showing the place of origin and the abbreviation: there is the market from which these hogs come as part of the Midwest purchases. The next is the head involved in one invoice or one shipment from that market. The next is the buy weight shown by our records as to each of these and the next is the reweight shown by this record. I have headed the next column gain or loss. The proper caption should be reweighed, gain or loss. Any remarks to the right of this are only items referring to some item of the exhibit. Now, carrying out the first I have before me which is the St. Louis--

Q. (Interrupting) Excuse me, may I interrupt just a moment, please?

MR. MELNICOFF: Mr. Examiner, I had to wait until this moment to make a statement I am going to make. You have heard the witness identify this first exhibit and indicate it concerned Midwest Order Buyers. Now, until that was a part of the record, in my judgment I couldn't make the statement I am about to make now. These exhibits are submitted without waiving in any way our objections to the inclusion of Midwest Order Buyers in this proceeding. You will recall at an earlier date we challenged the matter of the jurisdiction, that challenge was not sustained, as you recall, of course.

476 PRESIDING OFFICER BAIN: Yes, sir.

MR. MELNICOFF: Therefore, in order to meet what evidence the Examiner has admitted in the record we find it necessary to submit this kind of evidence. We submit without any waiver of challenge of jurisdiction, is that understood?

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: So with that understanding I will not interrupt.

BY MR. MELNICOFF:

Q. Excuse me, Mr. Gilby, that statement was necessary at that point. Will you please continue? A. If you will look at the page No. 4, the Order of Inquiry, you will see January 31, 1957, St. Louis Independent, 256 head of hogs. The first two columns are the items appearing on the invoice which makes a total on the invoice of 256 and the poundage as well, 57,950. That agrees with the invoice if needed to check it.

The next four columns show the place from which any one of these, and in this case one from Bushnell, with relation to four sows. That was sold to Midwest, three sows and they were billed to Midwest, 1,600 pounds. In the invoice which I related to on the left-hand side, it shows on the invoice, that these three sows appear and the weight is 1,600 pounds.

477 I don't think it is necessary to go further, Mr. Melnicoff.

Q. All right. A. Is it necessary to explain why they are the same weight?

Q. Yes. A. Our operations so far as any dealings between a posted market and Midwest Order Buyers is that the posted market sells to Midwest Order Buyers and the practice has been to charge the packer in the invoice both the head weight and amount, the same as was charged the Midwest by the posted market. That can all be traced in transactions so in this case for that whole invoice three were involved from Bushnell.

Now, to show the practice as far as the whole operation is concerned, in the first four hogs shown on the analysis, they were from one country point--what is CH? Chapin, which is a country point. You will notice the four head were shipped from Chapin, the buy weight was 570 and in this particular four, the weight billed, now, all these weights billed, all these weights that are shown as invoice weights are reweights except--and the dealer has this right--the buy weight may be used if the Midwest, or whatever the company is, chooses to do so and evidently as you see, it was shipped right out practically at the time it was purchased. As I

478 pointed out--well, we will go on to the next one.

The next one is 219 hogs, 45,930 pounds that came from various buy stations belonging to Midwest Order Buyers. For instance, Chapin again had a lot of 30, another had a lot of 100, another lot of 22 and so on until you reached the 219. The total buy weight, as they call it, is 45,930. I beg your pardon, 44,930, and that is the reweigh weight that is shown on this analysis, 44,930. The buy weight is 45,080, and is confirmed by the record as to buying. So that we accept the premise on that that we had 850 pounds on the total but you will find it came from each one of these making up a total of 850. Now, the same is true and the analysis goes for every item on the invoice. Well, here is one on this same buyer, St. Louis Independent Packing, the next page.

Q. Page 200 of Exhibit 4? A. That is correct. I just want to-- in my analysis of these transactions I found that when they make a purchase, suppose they purchased 285 hogs or any number of hogs, they don't ship all of those hogs to one buyer, they, perhaps, have two or three shipments off of that and this second page was supplementary to the invoice data and it shows what happens. For instance, here there is 239 from Rushville, the weight is 51,025, so you can get this from Rushville on the attached. Now, there was weight off or sorted off, I guess that is the way, that is the terminology they use in the operation,

479 because after all dealers there sort what he buys and takes for this packer what he wants and for another packer what he wants, so off this purchase of 239 hogs in this case, there is 103 head that are reweighed, that is, they reweighed when they shipped them 21,760 pounds. We don't know what the buy weight is on that 103 because we don't reweigh them for that sort. We do know what the total buy weight is of the whole 239. All right, then, again, there is 136 head and these 136 head went to the Independent Company and that appears in here (indicating) in the invoice. Well, the weight shown on here, 29,265 is after, in other words, what has been applied as the cost on this shipment is the reweigh which means when you have a total weight bought, the reweigh having a gain, we take the reweigh off the cost weight, that leaves a balance which we say is cost weight but it has in it the gain that occurs by applying to get the balance, the reweigh which shows a gain on reweigh. And so here, you see the reweigh is two nine eight seven five, when that happens, and all the gain, as they call it here, but all the reweigh increase is placed on the 136 instead of on the 239 and so I have made an analysis in each one of these examples where that occurs and

you can go down the rest of these which means in the case of this shipment from Rushville it is analyzed down the left-hand side, Mr. Examiner, where you notice 239, 51025, that is weight. From that we deduct the first 480 weigh off, 103, that is correct, but the 21760 is the reweigh and not the same weight as we bought. That leaves a balance, then, in this lot purchase of 136 with a balance of weight, 29,265.

Now, when we weigh out the balance of 136 we find the reweigh weight, that is the invoice weight is 28,875, that shows a gain of 610 on the 239 or on the invoice, the Order of Inquiry the 136 they show on there with this gain of 610, whereas the gain is on the 239 which means, if they show a gain of 4.5 pounds per head the actual fact is there is only 2.5 pounds per head if they take the whole purchase, 239. Now, the answer to this is that on the exhibits I have seen and I haven't analyzed them, the invoice weight is correct, the invoice weight is a reweight and our records portray these reweights. But what is shown in there as cost is, in most cases, until the balance is arrived at to make the total purchase cost, the reweigh weight, deduct it until we have it in. Sometimes these balances are five, sometimes twenty-five and various amounts like that on which is shown all the gain. That is what is shown right here on the Order of Inquiry and you will notice the next one which is the Palmyra, we find there it was taken on the 11th, it is four, five and that is what is shown on here per head but take the whole purchase of 90, of which we have deducted the reweigh, if we took the whole purchase, .5 per head.

481 Now, I could go through all these exhibits and they are made up the same way and my analysis have shown the results here as to the whole purchase that is involved in this one shipment in each case and in most cases, oh, nearly all, you will find these figures are not just one purchase but it is part of the purchase of that data. Let's see if there is something else we ought to have on that. You will find on each one of these exhibits we have gone through the same analysis work. I painfully checked all these so I can say that these are my analyses. They have got here what they say is added weight, there is no such

thing as added weight in our practice because every shipment is reweighed and it is that reweigh that is used in arriving at these gains that are called here, and I have shown in which way they become all the gain on all of the purchases whereas this only takes in a part of the purchase in which all the gain is applied to the balance of the hogs that are sold. There may be a question of a gain in every instance, I won't enter that, I will leave that to Mr. Melnicoff, but I may say that my analysis and my experience and my testing have shown that there should be an increase in the reweigh or invoice weight as compared to the purchase price.

Q. Mr. Gilby, what you just said would apply generally as far as procedure is concerned to Exhibit No. 5, is that right? A. Yes.

482 Q. Incidentally, all these exhibits, Respondents' Exhibits 4 through 12, inclusive, were prepared under your direction and supervision and are true and correct? A. Yes, sir.

Q. And as I started to say, Exhibit No. 5, Hunter Packing Company, the same procedure was followed? A. It was.

Q. And the explanation you gave in connection with Exhibit No. 4 would apply procedurely to 5? A. That's right.

Q. The same things are true of all the other exhibits? A. Yes, all the other exhibits.

MR. MELNICOFF: I now offer Exhibits 4 through 12, inclusive, in evidence.

* * * * *

[CROSS EXAMINATION]

BY MR. MILLER:

Q. Who prepared the exhibits, Mr. Gilby? A. There were others who were involved in the writing of them. It was my exhibit.

Q. Did you yourself physically prepare them? A. I checked them,
483 I got the headings, I created this exhibit.

Q. They were prepared in your office? A. No, they weren't.

Q. Where were they prepared? A. Down in Chapin and then I got them in my office.

Q. You got the procedure followed and who prepared them in Chapin? A. There were two or three involved.

Q. I don't believe you mentioned on direct examination these exhibits reflecting data from what books and records at Chapin? A. They reflect the records that are maintained in the Chapin office.

Q. More specifically, what records are those, for example, let's take the first column, the first two columns on page 1 of Exhibit 4, those two columns are headed "Head and Weight"? A. That is the weight of your purchase data, there are various bases for that where the man pays for it listed on the daily sheet, then that is again reflected on the books the total of which becomes our bought account in the general ledger.

Q. If I recall your testimony, you said that was the invoice weight and invoice head count, is that right? That is what you stated on direct

484 examination? A. Pardon me, this is the invoice that was taken from the invoice itself which, of course, was related from our records.

Q. In other words, the date on those first two columns were taken at Chapin, is that correct? A. Yes.

Q. Now, with respect to the rest of the columns on page 1 of Exhibit 4 what specific records of Midwest Order Buyers was that data taken from? A. This data was taken, well, we had the invoices and we had the records of origin for purchases.

Q. The invoice doesn't show a place for it? A. Why should we show the origin?

Q. I am asking you where the data came from? A. The records from which it was taken does.

Q. That is what I am trying to find out, what records was it taken from? A. I am not quarrelling with you.

Q. I'm not quarrelling with you either. Let's go through the column where the data came from the three columns on page 1 of Exhibit 4, the place of origin, what specific records of Midwest Order Buyers does that information come from? A. Are you referring to this column here (indicating)?

485 Q. You have a column, third column, place of origin? A. You have a place of origin at Bushnell.

Q. Where does the data come from? A. The data came from an invoice that was sent to Chapin, Midwest Order Buyers.

Q. Are they called buy sheets? A. No, that is an invoice made by Bushnell.

Q. Well, the buy sheet would show the same thing? A. No, we don't have involved the buy sheets for Chapin and Bushnell.

Q. What I mean to say is that the buy sheets may be typed or made out at Bushnell showing purchase of hogs for H. L. Sparks of Bushnell which would presumably cover a purchase of three head of hogs, would it not? A. Yes, a part, probably a lot of hogs.

Q. Show the same information from Bushnell? A. Yes.

Q. Now, with respect to column 7, let's take column 7, 8, 9 and 10, those are columns headed respectfully "Place of Origin," "Head," "Buy Weight" and "Reweigh Weight," do you see those? A. I do.

Q. Where does that information come from? A. The daily sheet and the documents sent to the office supporting the daily sheets.

486 Q. What is the daily sheet, the distribution book? A. No, that is the statement sent from each one of these country points to Chapin.

Q. That information would be reflected on the buy sheets, would it, also? A. What I call the buy sheets, they are from the country places to Chapin as the purchase of raw material and merchandise, the purchase of livestock.

Q. Well, I presume you are familiar with all the records maintained by the company. As a matter of fact, I can show you some copies of what order, but I don't think that is necessary since I am sure you are familiar with the records. A. They don't have any of those records--

Q. (Interrupting) There is a sheet sent from each Midwest country point to Chapin showing purchases for any particular date with the head count and buy weights shown thereon, is that not correct? A. That is correct, the total purchase.

Q. What do you call that document? A. Just related, it is the purchase of livestock and raw material.

Q. What do you call the actual document? A. That's it, it is a list of purchases.

Q. A document showing a list of purchases? A. Also I may add 487 to that it lists the checks that are given in payment and that is the basis of that sheet because if he pays out some expense money it has got to list that check, too, let's say, it is a list of disbursements so far as these checks for purchases.

Q. The document which you referred to as a document showing a list of purchases, that document also shows disposition made of those purchases, does it not? A. No, not in all cases.

Q. In quite a few cases it does? A. Yes.

Q. And it would be the purchaser's --- A. (Interrupting) You see, it is not the basic sheet for disposition of the purchases.

Q. And the information appearing on these purchase lists are also appearing in the distribution book? A. That distribution book is a memorandum book and it is used for the purpose of assembling the data that is necessary from the records to make an invoice or to check purchases or whatever it is necessary to do.

Q. It shows purchases and sales of the livestock? A. Yes, as to whether it is balanced.

Q. Information appearing in the distribution book with respect to purchases of hogs, it would be the information also appearing on the documents which you have described as purchase lists? A. It should 488 be, yes.

Q. In other words, your distribution book, then, insofar as purchases are concerned, is a consolidation of all the purchases for a particular day, is that not correct? A. It shows the detail.

Q. It shows detail and consolidates all points of purchase in one record? A. Yes, that is correct.

Q. Well, one other question, Mr. Gilby, are the records made, here in the room? A. No.

Q. Can they be available tomorrow? A. I can't answer that.

MR. MILLER: Can they be available tomorrow, Mr. Melnicoff?

MR. MELNICOFF: In response to Mr. Miller's inquiry, I assume we have the same privilege to submit a tabulation of books and records as the government has, it wasn't necessary to support that tabulation by the initial books and records. These exhibits here are taken from the same records as those that were taken, used by the government and used in their Exhibits 1, 2, 3, 4, 5, 6 and 7, I believe, all of the exhibits, for the reason I believe it is unnecessary to have the books and records here so far as qualifying exhibits for admission into evidence.

489 MR. MILLER: I don't believe it is necessary to point this out, it is obvious there is this distinction between the tabulations offered into evidence by complainant and the tabulation in question. The tabulation offered into evidence and received in evidence by the complainant's exhibits which were received in evidence were in part tabulations based upon, as Mr. Melnicoff says, the records of Midwest Order Buyers. Those records were and are under the complete control of Midwest Order Buyers and respondents had the opportunity, since the record has been in their possession, of checking those records immediately. The same thing is not true of the complainant, the complainant has no way whatsoever of checking these records or looking at them at this time at all and that is a great distinction. I don't know what the records show, I have had a chance to look at them for 15 minutes. Now--

MR. MELNICOFF (interrupting): This is the situation in which we were in at the very start. Certainly, this is an adversary proceeding and any bias involved or determination to prove is placed upon the complainant as well as respondents. They have as much at stake as we have. I don't think anyone of us misinterpreted or brought into this hearing any records we felt were untrue. I say that sincerely for the complainant as I say for myself. I am merely mentioning this is not an

490 inquiry, it is an adversary proceeding so the same considerations apply.

Secondly, all we have done is taken the same books and records that the complainant has and have explained it, we have told them what they are, they had, the only distinction of what we have done and they have done is that they haven't gone as deeply into the matter as we have. We took the same fundamental records given them now, the explanation they could have, even had they asked anyone at this point, at the time they were making up their copies on which their charges are based or the same information, had they come to us any time before the inquiry was issued or the same information, had they come to us after the Order of Inquiry was issued and asked us to explain. We offered to them, as a matter of fact, several times, in these circumstances I believe defining yourselves to the admissibility of these records on the sole point of whether we must have the books and records here, I say no, these are the same books and records that were involved in the complainant's exhibits, we have given our analysis, they have given their analysis. Their analysis was not required by books and records so I urge ours not be so required, therefore, Mr. Examiner, I resist the suggestion that we should make those books available. I might point out to you that had this question arisen and had our objection been sustained a subpoena would have been issued. Examination indicated he was interested in
491 whether or not the complainant desired to speak. The complainant said he did not want to speak and at that moment had we had one of the issues, we would have been in a position to resist. Therefore, I respectfully say again it is unnecessary for the admissibility of these exhibits into evidence for the so-called underlying books and records here in this courtroom.

PRESIDING OFFICER BAIN: No objection before me at that time, you may proceed.

MR. MILLER: I would like to make two comments before I make an objection. No. 1, I repeat that the records which we are talking about are records which respondents have access to, complainant does not, consequently that makes a big distinction between these documents which are now being offered into evidence and certain complainant's exhibits.

Secondly, I might say we are not confronted or need to be confronted with a subpoena question. It is merely a matter of whether or not respondents will make the basic data available in support of these exhibits, available at that time, Mr. Examiner. I object to the admission of these documents into evidence unless respondents bring in and make available the basic data in support of this exhibit and by that I mean the invoices and distribution books and any other records used in making up these exhibits.

MR. MELNICOFF: All the books and records were seen by the 492 complainant, it was the basis of their exhibits here. There is nothing new in what we offer except the explanation and analysis. I have resisted the objection.

PRESIDING OFFICER BAIN: We may proceed.

MR. MILLER: Did you rule on my motion, sir?

PRESIDING OFFICER BAIN: Did you move--

MR. MILLER (interrupting): I objected to the admission of these, I move respondents' motion be denied, respondents' motion, that is, in that these documents be received into evidence that that motion be denied unless the documents which I previously referred to, the account and records maintained by Midwest Order Buyers, are produced here for examination.

MR. MELNICOFF: I resist the motion which they have indicated.

PRESIDING OFFICER BAIN: I don't believe that objection should be sustained at this time.

* * * * *

494 BY MR. MILLER:

Q. Now, this morning you identified Respondents' Exhibit No. 4, I believe it was? A. Yes.

Q. I wonder if you will refer just a moment to Respondents' Exhibit No. 12. Would you tell us, please, what the first page of that exhibit represents? A. You will have to be patient.

Q. Take as much time as you want, Mr. Gilby. A. You have the second page, are you referring to that or the first?

Q. I am referring to page No. 12 of Complainant's exhibit. A. Each one of these items, take the 41, for instance, it shows the weight as fifty-nine fifty, you will find on this second page in this weight, that the 69 purchase shown as Berry on that. On the second page it shows 41, eight six seven ought reweigh number. I am not referring to the right thing, just a minute. All right. Now, referring to the third page, Mr. Miller, and you will notice these are recited one after the other, first the 41.

Q. Yes, sir. A. Then the 62 and then the 258 and the 117 and the 192 and then again we have it listed, each one of these, on the first page.

495 Q. That's right. A. On the first page we are trying to show these are two dates, 12/9 and 12/9, that is the third column, 41 head and 12/9 and 12/10 and so on, it goes on, and these weights agree with the weights we have over on those respective days in connection with this 41 and 62 and so on. What we are showing you when we figure it up to 835 head, and that is the total of that third and fourth sheet, if you look up at the left-hand side and go to the end, the total is 835. The invoice weight or reweight is 216, 390 on there as well as on the actual detail sheets and the buy weight is 214, 090. What we are showing you on there is this amounts to 835 and the head, 835, there is 2,300. Now, if these gains and losses are shown on the total, as a total, just the same as you find the invoice, you will find if on the 835 it amounts to 2.7 per head whereas on each item out here it would be a different figure. That is the purpose of the first page.

Q. Well, now you have said the first two columns, figures on the first page are the same as the first two columns or rather the same as columns headed "Head and Weight" on page 2, is that correct? A. This doesn't portray all of it.

Q. No, I mean on page 3. A. No, it takes three and four, the totals are shown on 4 and you will find it brought up the same way--

496 Q. (Interrupting) While we are on page 4, Mr. Gilby, let me ask you a couple of questions on that. A. Are we finished with the other?

Q. No, not quite. Page 4 is a tabulation which gives a total of 488 hogs sold-- A. (Interrupting) No, here is one, two, three and four which totals 835 so if you want to talk about this, that is fine.

Q. That is page 4? A. Oh, is it? I wonder who marked it. I think the answer is two days shipment, is that it? All right, it is two days shipment, two invoices, the one on this page is 488.

Q. What page are we talking about? A. One, two, three, four, five.

Q. You mean page 4 is a separate invoice for-- A. (Interrupting) Yes, they could be taken as one count, that would make this four, this is the same invoice.

Q. The page you are referring to show a total of 488 hogs, 146,005 pounds, is that correct? A. All right.

Q. And your information of that is the 835 hogs were invoiced by two separate invoices? A. No. I am saying the 835 are only the summation of these first two, that is one exhibit, that is 3, and that 4 is another
497 exhibit, another invoice, one invoice being 835 and the other invoice being 488.

Q. You mean page 4 has no relevancy to pages 1, 2, 3, and 5? A. Well, it depends what you call them.

Q. I am merely referring to these that are offered into evidence. A. I didn't make them.

MR. MELNICOFF: May we go off the record just a moment?

PRESIDING OFFICER BAIN: Off the record.

(Discussion off the record.)

PRESIDING OFFICER BAIN: On the record.

BY MR. MILLER:

Q. Now, Mr. Gilby, after that recess I would like to start over again. Is it my understanding that figures on page, in the first two columns on page 1 are invoice statements? A. They are invoice figures.

Q. In other words, it is your testimony that those figures in the first two columns on page 1 would be taken from the invoice to Swift & Company? A. Yes, sir.

Q. And the same is true, I take it, with respect to the columns on page 3 of this exhibit which are headed "Head and Weight" inasmuch as

498 they appear to be the same figures? A. Yes, and the next page--

Q. (Interrupting) Well, the figures appearing on page 4 are merely routine to figures appearing on page 3? A. They are not, they are in addition, making up a total of 835.

Q. They are in addition to? A. All this.

Q. Now, the first two columns of figures on page 3, "Head and Weight", the head count is 41, the weight is 5,950, on page 4 the head count is 41, weight is 5,950, is that correct? A. The first two columns 41, 5,950.

Q. And they also appear on page 4? A. Oh, now I got the idea--this information is repeated here and the total is 835, two hundred sixteen three nine ought. The detail as to the other side of it from country places and there is none here from posted markets, if you add them together, you get the total of either one of these pages.

Q. I was talking about the first two columns on pages 3 and 4. A. So am I. You have to take this (indicating) plus this (indicating) to agree with this (indicating) or this (indicating) which is repetition.

499 Q. Let's concentrate for a moment on the first two columns of these two pages. You said a moment ago the columns on pages 3 and 4 were taken off invoices of Swift & Company. You have to total the columns on both pages to arrive at a total figure of 835 and a total weight of 316,390 pounds. I am referring only now-- A. (Interrupting) You mean 216--

Q. (Interrupting) Yes, I am referring now to the first two columns. A. Yes, sir.

Q. And you have to go to both pages to get the total? A. Yes, the breakdown of these figures which is the same on this page as on this as portrayed on the two pages.

Q. I am not talking about the right-hand side of the pages, we will get to that in a moment. If you have to go to both pages, I am referring now only to the first two columns, columns headed "Head and Weight" on pages 3 and 4, if you have to go to both of these columns to get a total figure why is it the figures of both columns are the same on both of the sheets? A. An arrow was made and the stenographer didn't have to repeat them.

Q. You are saying the figures on page 4 are merely repetition? A. Yes, page 3, this is page 3, 4 is a repetition on 3.

500 Q. You don't have to go to each page to get a total? A. That is correct, it is not duplicated.

Q. Now, with respect to the information on the right-hand side of these two pages, that, I take it, is a detailed breakdown of the 835 hogs that are shown in the first two columns of this exhibit, is that correct? A. On these added together it is a breakdown of each one of these, yes.

Q. Now, the second figure, let's take page 3, on page 3 in the columns on the left-hand side which are captioned "Head and Weight" there is an entry 62 head of 10,505 pounds? A. Yes.

Q. Where do you find that on the right-hand side of these sheets? A. You take the first item on this page which is the first page of the two--

Q. (Interrupting) What page are you referring to? A. One, two, three.

Q. On page 3? A. You got nine, the first item.

Q. Nine head, yes. A. Yes. And you turn over to the next page, you add the 53 to it, that is the detail of the 62.

Q. So as I understand your testimony, Mr. Gilby, in order to arrive

501 at that 62 head and total weight of 10,505 pounds, you have to go to the third entry in this exhibit and the 53 entry, if my accounting is correct, is that correct? A. No, you go to the first entry, the nine.

Q. You have to go to the first total entry on page 3 and add that to the-- A. (Interrupting) Second on page 2.

Q. Second on page 4 to arrive at the total, is that correct?

A. That is evidently why this is repeated over here so it will relate 53 to 62. That happens to be duplicated.

Q. This exhibit does not show at all what you have testified about?

A. Yes.

Q. How does this exhibit show how the 62 head of hogs invoiced at Swift & Company are the 62 head of hogs you just pointed out? A. I could go to the original of this and put them in order, I can designate them.--

Q. (Interrupting) My point is the exhibit doesn't show that, does it?

A. Yes, it shows the comparison with these two figures.

Q. I have had to question you for 15 minutes where that 62 head--

A. (Interrupting) I will go to them now.

502 MR. MELNICOFF: May I point out he hasn't had to spend 15 minutes and furthermore this, you will take a page, look at page 3, there is a figure 169, the next to the right is a head count of 62. Now, if you will refer to page 4, the extreme left-hand column again the 169 and again the head count of 62. All you have to do is look at all the figures on pages 3 and 4, the two lines that refer to that figure in parens, 169, that is the key figure. Now, there you will see on page 4, for example, 53 hogs on country markets, on page 3 under country markets opposite 69 you see nine, nine and 53 are 62, so merely by referring to the figures in parens on page 23 and the corresponding figures on page 4, that is all there is to it. That is why the figures were placed there in that way so there would be no question about what figures were referred to.

MR. MILLER: Mr. Melnicoff's testimony has merely demonstrated what I have tried to show, that the exhibits do not show on their face what they purport to show. The exhibits were not adequately explained this morning and even more so, this witness has not been able to explain the exhibits.

THE WITNESS: I have, I would be glad to explain the whole thing except this, the reason these are on two pages, you notice we have two days, the 9th and 10th, and we have to divide the 9th, all on one page the 9th, and

the rest on the 10th, listed the total of the invoice which was invoiced on
503 one date.

BY MR. MILLER:

Q. Mr. Gilby, just before -- A. (Interrupting) We could write it up another way and combine the two dates, all these figures opposite the items on the left-hand side, there is no confusion about it.

Q. Just before Mr. Melnicoff straightened out what he was trying to get straightened out, you stated there must have been an error. You prepared this? A. It was somebody under my jurisdiction but when it was given to the person to type they typed the two left-hand entries on each page because there were two dates.

Q. Who under your jurisdiction? A. I don't know which--it was Dodd.

Q. Who is that? A. Dodd Bryant.

Q. Who is he? A. He is an employee of Midwest Order.

Q. He prepared it in Chapin, Illinois? A. I said under my direction and I visited Chapin, Illinois, and he solicited James Gilby in Chicago and we went and listed them altogether.

Q. At the time this information was taken off at Chapin you were in Chicago? A. No, part of the time I was, I couldn't wait there until it was
504 all summarized, I did go down when it was finished and check it and
found it but it wasn't typed.

Q. You don't mean to testify you saw all these original records from which this information was taken? A. Original records, I saw the data.

Q. Did you see the original records? A. I saw the records from which it was taken.

Q. You did? A. I did.

Q. Where in this exhibit does it show the hogs that came from Bushnell, Mr. Gilby? A. There were none.

Q. No hogs from Bushnell. In our information which was introduced 99 of these hogs came from Bushnell. A. Of this category here, according to my records, there were none from Bushnell.

Q. Then it is your testimony that none of the hogs in this transaction came from posted stockyards? A. Yes, I would testify this statement is correct.

Q. Eight total entries on page 3 of this exhibit shows one hog from B-u-s-h. What does that mean? A. Tell me on which one?

Q. On page 3 in connection with the 6th total entry where it shows a total of five hogs, four of those shown from Astoria-- A. (Interrupting)
505 Bushnell, it should be Rushville.

Q. Is that a typographical error? A. Not on our part, but on yours.

Q. On mine, I didn't prepare this exhibit. A. It says B-u-r-s-h.

Q. Are you changing the official exhibit from a "B" to the "R"? A. This should be "R".

Q. Who made the error? A. I would have to look at the original sheet.

Q. Where are the original sheets? A. I would have to hunt for them for you, too.

Q. It won't be necessary right now. Now, on page 4 -- A. (Interrupting) I could give you more called Bushnell when they were rush if you want to know.

Q. Complainant's Exhibit No. 1 shows a total of 835 hogs from Bushnell? A. I had some from Rushville.

Q. Now, on page 5 of this exhibit, Mr. Gilby. A. The total shown on there is, I have what I think is five here.

Q. I have a transaction headed "Swift & Company, December 10, 1955". I believe that Mr. Bryant told you off the record that actually related to-- A. (Interrupting) I don't seem to have the pages you have,
506 is this the one?

Q. December 10, 1955. A. Yes.

Q. I believe Mr. Bryant told you off the record that actually referred to a transaction on December 10, 1955, is that correct? A. Yes, and I have it, referred to December 1st, 1955.

Q. And that was an error in making the tabulation, wasn't it? A. They had a 2 after the 1 which was a typographical error.

Q. So that refers to the first transaction listed in paragraph 4 of the Order of Inquiry, is that correct? A. Yes, sir.

Q. Now, if I am correct, that exhibit shows 167 of those 488 hogs as having been purchased at the Springfield stockyards, Springfield, Illinois? A. Yes.

Q. Is that correct? A. Yes, sir.

Q. And there is an asterisk at the bottom of that exhibit stating that 55 of those hogs unloaded in Chapin, fed and watered while the truck went back to Springfield? A. Yes.

Q. Where did that information come from? A. That was made
507 from the records from which this data was gathered.

Q. Well, I gather it was made from the records, some data was gathered. What records did that information concerning the shipment of those hogs from Springfield to Chapin and the unloading of those hogs, what specific records of Midwest Order Buyers did that order come from? A. The specific records is the purchase from Springfield paid for, and the reweighing at Springfield.

Q. Does the purchase record at Springfield show the routes of shipment of those hogs? A. I would have to look to see the route of shipment, but these hogs purchased by Midwest from Springfield, H. L. Sparks & Company of Springfield.

Q. Reweighed at Springfield? A. They were weighed at Springfield.

Q. Reweighed at Springfield? A. I would say yes, except that there are cases when the dealer, we are dealers, can take the original lading and use them as shipping weights. I would have to check for you, sir, to know which choice was made in that case. Insofar as our charge from Springfield and the charge included on the invoice to a packer wherever they went, the weight was the same.

Q. Now, the thing I am interested in, Mr. Gilby, you have identified
508 an exhibit and this exhibit has been offered into evidence by respondents and this exhibit purports to show a shipment of 55 hogs from Springfield to Chapin, Illinois, is that correct? A. That is correct.

Q. Now, what I want to know is this, what specific records of Midwest Order Buyers was used to compile that particular data? A. Of Midwest Order Buyers?

Q. Yes, what particular record show-- A. (Interrupting) You would have to go to three or four records, the payment of purchase--

Q. (Interrupting) Wait just a moment. How does the payment by Swift to Midwest Order Buyers show that those 55 hogs went from Springfield to Chapin? A. It don't, because we bought them from Springfield. Midwest Order Buyers made its purchases from H. L. Sparks & Company of Springfield.

Q. Well, I didn't mention that Springfield payment record from Springfield to Chapin, that was your testimony. A. I didn't say from Springfield to Chapin, I said there would be a payment from Chapin to Springfield for the purchase of those hogs.

Q. What particular records of Midwest Order Buyers shows that 57 of those hogs went from Springfield to Chapin before those hogs were

509 delivered to Swift & Company at National Stockyards? A. We have an invoice, we have a scale ticket.

Q. Does the invoice show the hogs went from Springfield to Chapin? A. Yes.

Q. It does? A. Yes.

Q. Well, now, do you have that invoice? A. No, I don't happen to have it here.

Q. Have you seen it? A. Yes, I have seen all the invoices that have to do with these transactions.

Q. And the invoice that was sent from Midwest Order Buyers and Swift & Company shows that 55 of the hogs purchased at Springfield went to Chapin, is that correct? A. No, sir.

Q. That was what I asked you. A. Oh, I took it the other way, it did go from Springfield to Chapin, Chapin paid for it, Chapin reshipped it along with this invoice to Swift & Company on that invoice and I tried to point out to you that the same weight was charged to them by Springfield and that the same money, by the way, we haven't included money here.

Q. You haven't quite answered my question, Mr. Gilby. A. I don't

510 understand your question, then.

Q. I will start over again. This exhibit shows that 167 hogs coming originally from Springfield were sold to Swift & Company at National Stockyards, is that correct? A. No, it doesn't, the record shows they were sold to Midwest Order Buyers at Chapin.

Q. But of those 167 hogs that you say were sold to Midwest Order Buyers in Chapin, those 167 hogs were originally purchased at the Springfield stockyards by Sparks of Springfield, is that not correct? A. No, they were purchased by H. L. Sparks & Company of Springfield, a separate entity.

Q. All right. I thought that is what I said. A. No, you said Springfield and left out the of, that is right, you did, and that is the proper name of that company.

Q. May it be understood when I refer to H. L. Sparks throughout the questioning that I intend to mean that to be the proper partnership name of H. L. Sparks and Company at that particular market, can we understand that? A. I will have to ask counsel on that.

MR. MELNICOFF: I would prefer he would use, if he wants to use it Sparks of Springfield and so forth, because it is important to us this record clearly reflect the several entities and the witness would be more at home if the of were put in. I know what Mr. Miller is after and I sympathize with
511 him. Let him shorten it and say Sparks of Springfield.

MR. MILLER: I think we need sympathy because we are not getting answers to our specific questions. I am glad you sympathize with me.

BY MR. MILLER:

Q. This exhibit, Mr. Gilby, page 5 of Exhibit No. 12 shows 167 hogs sold by Midwest Order Buyers to Swift & Company at National Stockyards, is that correct? A. Yes, this is Swift & Company.

Q. And those 167 hogs were purchased by H. L. Sparks & Company of Springfield, originally, is that correct? A. That is correct.

Q. This exhibit further shows 55 of those 167 hogs were shipped to Chapin, Illinois, unloaded, fed and watered while the truck went back to Springfield, is that correct? A. Yes.

Q. Now, I will ask this question once more. What specific records of Midwest Order Buyers shows that that was what happened to those 55 hogs? A. Again, you would have to look at your records.

Q. What records would show that? A. The records would show the purchase from Springfield.

Q. That record would merely show a purported-- A. (Interrupting) It is a memorandum there, unloaded before it was shipped to Swift & Com-
512 pany. That doesn't mean anything more than that.

Q. Does that record of Midwest Buyers show who the trucker was? A. Yes.

Q. And it would show, I take it, how many head he carried? A. Well, yes.

Q. How many head he hauled? A. Yes.

Q. What happened to the other 112 head in that 167, Mr. Gilby? A. They came to Springfield and were not watered especially as shown by 57.

Q. They came to-- A. Chapin.

Q. From Springfield and were not watered and fed. How do you know that? A. Because it doesn't give you the memorandum they were.

Q. Was that 55 head that were unloaded in Chapin? A. That is correct.

Q. Was that a full load? A. Well, you can put more than 55 or 57 in a truck.

Q. Well, if you had more than 55, I mean, assuming you had, say,
513 65 hogs, you wouldn't unload 55 and take the other 10 back to Springfield? A. No, the whole shipment would be to Chapin when he went back.

Q. Now, Mr. Gilby, would the records show Springfield, show how long these hogs were at Chapin when they were unloaded for feeding? A. Where?

Q. At Chapin. A. Yes, they would.

Q. How long were they there? A. I don't have the record here.

Q. What would be your best guess?

MR. MELNICOFF: I object to that, Mr. Examiner, this is a cross-examination of an exhibit. That type question is irrelevant.

PRESIDING OFFICER BAIN: I think it is permissible on cross, this is in the nature of cross. A. You would have to refer to the records.

BY MR. MILLER:

Q. To the records? A. Yes, they may all just go through picking up some more at Chapin.

Q. Mr. Gilby, page 3 of Complainant's Exhibit No. 4 has been identified and received into evidence as a copy of an invoice retained in the
514 records of Midwest Order Buyers. You have testified that you have examined this invoice, so I assume you are familiar with the fact in the left-hand column of this invoice shows the trucker who actually, the truckers, I should say, who actually trucked those hogs to Swift & Company, is that correct? A. No, because there are two without the truckers' names.

Q. Let's take the first two items. Doesn't that show it was the Obert trucking service that trucked 75 head to Swift & Company? A. Usually on our invoices we show the detail as to who is trucking, we show the car numbers if it is by railroad and if the name shown on the shipment is any different to the invoice we show they can expect that shipment in the name of so and so and giving the car number, all that data is given to Swift & Company. I don't know why in this case the two items were left off.

Q. The second column shows W. O. Surratt as having trucked two head to Swift & Company in National Stockyards, the total would be 167 head, would it not, Mr. Gilby? A. This further gives the information and the reason this is usually placed at the bottom of the invoice, each item, it shows these truckers 1, 2, 3, 4, 5, took and delivered 488 hogs.

515 Q. That is correct. A. And the invoice is only 488 hogs.

Q. I am only interested in the first two items of that invoice, the 75 head trucked by Obert Trucking Service and the 92 head trucked by W. O. Surratt. Now, isn't it a fact, Mr. Gilby, that the 167 head I just referred to are the same 167 head that originally came from Springfield? A. They could be.

Q. They could be, and isn't it true, Mr. Gilby, that they were loaded out to those two truckers at Springfield, Illinois, in numbers of 75 head and 92 head? A. How does this trucker--167 of the total of 488 hogs on this invoice were hogs from posted markets called Springfield. As to how they were conveyed to the packer, sometimes they are delivered to concentrated points and reloaded in the truck that has already got a shipment to whoever the packer is.

Q. The invoice of Midwest Order, in the records of Midwest Order Buyers at Chapin shows how those 167 hogs were conveyed to Swift & Company? A. That's right, you asked the question from Springfield.

Q. I said isn't it true those hogs were loaded out of Springfield in exactly the same numbers shown on that invoice? A. Well, let's see, 75 here, 92 which is 167, I would say yes. Now, as to the answer of the 55,
516 what is it you want to know?

Q. Well, if they were loaded out of Springfield in loads of 75 and 92, Mr. Gilby, how do you account for the notice on this exhibit showing 55 as having-- A. (Interrupting) Did you notice it said "Went back"?

Q. Yes; who went back? A. The trucker, he then brought the others back to Chapin and picked up fed hogs, had to take care of them, no additional weight charged to the packer.

Q. How do you account for the fact that 55 hogs were not loaded out at Springfield? A. I don't account for that, I don't have to, the same hogs go direct to the packer whether unloaded there or not.

Q There is a discrepancy between what this exhibit purports to show and what the invoice shows. A. I don't see a discrepancy at all.

Q. Are you familiar with that type of record, Mr. Gilby? A. Let's see.

MR. MELNICOFF: What is he being shown, Mr. Miller?

THE WITNESS: Come and see.

MR. MILLER: I merely asked him if he is familiar with that type of record.

THE WITNESS: These are the Springfield Stockyards Company

517 records of what they loaded at the Springfield posted market, that is all, and it shows the same as shown on the invoice.

MR. MILLER: May I have these marked for identification, please? I believe our next number is--

PRESIDING OFFICER BAIN: The next numbers will be 79 and 80.

(Thereupon the documents above referred to were marked for identification as Complainant's Exhibits Nos. 79 and 80.)

BY MR. MILLER:

Q. Is it not true that Complainant's Exhibits 79 and 80 are loading out records from the Springfield Stockyards?

MR. MELNICOFF: I object to this question at this time. If the exhibits are received in evidence they may be proper questions but merely to determine whether they are eligible into evidence I respectfully submit this kind of inquiry is highly improper as to exhibits which have not been offered into the record, namely, those marked for identification as 79 and 80.

PRESIDING OFFICER BAIN: Would you read me Mr. Miller's question? (Question read.)

PRESIDING OFFICER BAIN: Just ask the witness what they were. I don't see there is a good objection to that. He may answer. A. These

518 are presumably the record that is shown as to shipments out of the Springfield Stockyards posted market.

BY MR. MILLER:

Q. And they show the number of hogs loaded out and trucker loaded out, too, don't they? A. Let's see. Well, it says here, received above described stock, who received them.

Q. One signed as if by D. Obert and the other by Bill Surratt?

MR. MELNICOFF: At this moment I wish to renew the objection as to testimony related to Exhibits 79 and 80. We are confined strictly to 4 through 12, inclusive which are admitted into evidence. This line of inquiry may be relevant and proper once the exhibits are in. Until they are in I suggest this is not proper examination at this time.

PRESIDING OFFICER BAIN: Before the exhibits are admitted, if they are, I believe it would be improper over the objection as to what the thing shows, when I denied the objections a few minutes ago, that is what the paper is, he didn't ask what it shows.

MR. MELNICOFF: I move that both question and answer be stricken.

PRESIDING OFFICER BAIN: I think they may stay on the record. The answer was proper because it did not give the figures and names on the exhibit.

519 MR. MILLER: Do I understand your ruling that I may not go into the information appearing on this document at this time?

PRESIDING OFFICER BAIN: That is right.

BY MR. MILLER:

Q. Mr. Gilby, assuming that the loading out records of Springfield, Illinois, do not show any 55 hogs were loaded out to any trucker. How do you account for the notice appearing on this exhibit with respect to 55 hogs having been shipped to Chapin and the trucker turned back to Springfield for more hogs?

MR. MELNICOFF: I object to that as calling for a conclusion, speculation, assuming, no evidence within the record which that question can be based on.

MR. MILLER: I don't think the witness knows the answer but I would like to have an answer to the question.

PRESIDING OFFICER BAIN: I think it is a proper cross-examination. The objection is overruled.

A. I don't presume any other shipments out of the Springfield yards. You say as to the 57?

BY MR. MILLER:

Q. Your exhibit purports to show 55 hogs coming from Springfield to Chapin, Illinois, where they were unloaded for feed and water while the truck went back to Springfield? A. That is 55.

520 Q. That is correct. Now, assuming there were not 55 hogs loaded out, no load of 55 hogs out of the Springfield yards. A. Presuming?

Q. I am asking that question. Let's assume that the loading out records at Springfield show that there was no load of 55 hogs loaded out of Springfield by H. L. Sparks & Company that day. How do you account for this notation in your exhibit?

MR.MELNICOFF: I object again. This is speculative and asks for a conclusion, it is improper at this time.

PRESIDING OFFICER BAIN: I don't believe the objection is good. It is overruled. A. Yes, a total of the invoice is 488, it goes to the fact the total, summating what came from the trucker is also 488, the truckers who carried it to destinations, two of these truckers we have also appearing in this other respect, that is, you showed me the receipts, that is the first and second one which is 75 and 92 head. Now, the 53 and 55 is on this invoice, am I right?

Q. Show me where the 53 and 55 is on the invoice with respect to the hogs transported by the Obert Trucking Service and W. O. Surratt. A. Without further record I cannot tell you which load the 55 and 53 were sent, the same total number sent there.

521 Q. Is it your testimony now that the 53 and the 55 referred to on page 5 of Respondents' Exhibit 12 are the 53 and the 55 appearing as the 5th and 6th entries on this invoice? A. I have to presume that I think they are the same lots.

Q. You think that they are the same lots? A. Yes.

Q. Then the Obert Trucking Service and W. O. Surratt did not transport those hogs from Springfield to Swift & Company? A. I can't tell that from this.

MR. MELNICOFF: May I again interpose--

THE WITNESS (Interrupting): They took the 488 and the other truck.

MR. MELNICOFF: Mr. Examiner, I wish to add this to my objection to this line of inquiry. The witness is now being asked, in order to determine whether or not the exhibits he sponsored may be admitted into evidence, the witness is being asked to interpret the exhibits that have been tendered by the complainant. Mr. Examiner, it may well be a conflict between the exhibits, I am neither suggesting it or deciding it, that such conflict exists, I am merely saying in the event such should exist, I don't know or suggest that it does, such inquiries would be pertinent when the exhibits are in evidence, then one exhibit is set to disqualify the other.

PRESIDING OFFICER BAIN: I don't think the objection is good at
522 this time. It is overruled. This would be a good time to recess.

(Short recess.)

PRESIDING OFFICER BAIN: Please come to order. All right, Mr. Miller.

BY MR. MILLER:

Q. At the time of the recess, Mr. Gilby, I was still questioning you concerning certain items appearing on page 5 of Respondents' Exhibit No. 12. With respect to the 167 hogs from Springfield I believe it was your testimony that all of those hogs were delivered to Chapin, is that correct? A. No, I said they went through Chapin or probably went direct to the plant.

Q. To the packer from Springfield? A. When you are talking about 55 hogs which have a star, I would say, yes, they did come to Chapin.

Q. Fifty-five of the hogs, according to your testimony, which were unloaded in Chapin, according to this exhibit, obviously had to come from Springfield to Chapin? A. That is correct.

Q. There is a notation there the truck went back to Springfield. Now, did the remaining 112 hogs come from Springfield to Chapin? A. No.

Q. They went direct from Springfield to National Stockyards?

523 A. That is correct. May I answer your question further as to why?

Q. I don't know-- A. (Interrupting) It would be indirect.

Q. All right, go ahead. A. The 167 hogs were too much weight for these truckers on the invoice. This trucker who brought these 55 to Chapin found he should have picked up 75 which he did pick up eventually, so he had to go back to Chapin and pick up the 20, or back to Springfield to pick up the 20. If you will notice on that receipt of the stockyards there are four or five pens shown, pen numbers, I think there is a pencil notation.

Q. Yes. A. And so he went back to Springfield and picked up the 20 and back to Chapin and picked up 55 and he had his load to go to St. Louis.

Q. I see. He brought 55 from Springfield to Chapin and went back to Chapin-- A. (Interrupting) He didn't purposely bring them through Chapin, he was coming through Chapin, he had to get 20 more, he should have picked them up in the first place.

Q. Now, that wasn't exactly the same as your testimony a moment ago, Mr. Gilby? A. That is correct, I had a reminder.

524 Q. What was it that refreshed your recollection between the time that I asked you the question first-- A. (Interrupting) I asked Mr. Dodd Bryant as to what my recollection was and he confirmed it.

Q. Mr. Bryant? A. Yes.

Q. And he refreshed your recollection on that? A. Yes.

Q. I see. Now, Mr. Gilby, referring to the invoice which was sent from Midwest Order Buyers to Swift & Company, a copy of which is in evidence as page 3 of Complainant's Exhibit No. 4, will you point out to me which of the hogs listed on this invoice came from Springfield as shown by Respondents' Exhibit No. 12? A. There is a total of 488 here (indicating). You were asking me to identify on here these hogs?

Q. Yes, the hogs that came from Springfield. A. Well, 53.

Q. Fifty-three hogs and a total invoice weight of 18,505, those came from Springfield? A. Fifty-five, that is these 55 here and the 53 are these hogs (indicating).

Q. They are shown on Respondents' Exhibit No. 12 as having come from Springfield, is that correct? A. Yes, that is 11 that came from Springfield.

525 Q. In other words, the last three entries on this invoice, page 3 of Complainant's Exhibit 5, are hogs which, according to your testimony, came from Springfield, is that correct? A. Yes.

Q. And those entries on this invoice correspond to the similar entries on page 5 of Respondents' Exhibit No. 12, is that correct?

A. As to both head and weight, is that what you are asking?

Q. That is correct. A. All right, they are the same on each document.

Q. Now, Mr. Gilby, you testified a moment ago that a load of 75 hogs came from Springfield and were shipped from Midwest Order Buyers to Swift & Company. Will you identify those hogs on this invoice? A. Well, as you see here, I can't identify them as to each item here (indicating).

Q. Do you have any idea-- A. (Interrupting) If you will get--go ahead, you have the question.

Q. Do you have any idea in which items those 75 hogs might be? A. Well, I can identify the 55 and can identify the 53 and I can identify the 11 and that is all that we know.

526 Q. Now, Mr. Gilby, you testified a moment ago that 92 of the hogs from Springfield were shipped directly from Springfield Stockyards to Swift & Company at the National Stockyards, is that correct? A. Ninety-two were shipped from the stockyards right to, not the National Stockyards but Swift.

Q. At the National Stockyards, the Swift plant is located at the National Stockyards? A. I take it they did. What he had to go back for were the 75.

Q. A moment ago a difference of 75 or 92-- A. (Interrupting) That doesn't mean in the same truck, you got the trucks marked right here (indicating).

Q. You mean more than two trucks, two shipments? A. There are five trucks right there.

Q. But a moment ago, Mr. Gilby, you stated that the trucker who trucked 55 hogs from Springfield to Chapin went back and picked up 20 more hogs at Springfield to complete his load and then delivered 75 hogs to Swift & Company at the National Stockyards? A. That is correct.

Q. And then you stated, if my memory serves me correctly, that the remaining hogs of that total 167 hogs were shipped directly from

Springfield to Swift & Company? A. I take it, yes.

527 Q. Well, now, will you show me on that invoice-- A. (Interrupting) I told you I could only identify the 55, the 11 and 53.

Q. Can you show me on the invoice where that 92 head appear? A. Ninety-two head?

Q. Yes. A. Oh, I see what you mean, the 92 that were carried by this trucker (indicating), I cannot, but if you look at that receipt you will find they were picked up from several pens.

Q. Isn't it a fact this 92 head which your invoice shows as having been trucked by W. O. Surratt were actually the 92 head you have been referring to as having come from Springfield? A. The Surratt truck, yes.

Q. To Swift & Company? A. Yes.

Q. Well, then, your testimony a moment ago that the last three items on this invoice account for the 167 hogs coming from Springfield is incorrect? A. No, they are correct.

Q. What records kept by Midwest Order Buyers would show that, Mr. Gilby? A. Well, you have the invoices and you have the charges
528 from the stockyards at Springfield.

Q. What specific records kept by Midwest Order Buyers? A. We have the invoice and scale tickets and everything that ties up with the invoice.

Q. What records at Springfield-- A. (Interrupting) We have the Springfield shipping record which you had a receipt for there, I don't remember that--

Q. (Interrupting) Do you keep a Springfield shipping record at Chapin, Illinois, is that correct? A. Yes.

Q. Mr. Gilby, referring back to Respondents' Exhibit No. 12, the first page thereof. A. No. 12. Now, again, the question, Mr. Miller.

Q. The first page of that, the tabulation is completely different from any tabulation you have testified to this morning, is that not correct?

A. That I testified about this morning?

Q. Yes. A. In other words, I was arranging something that specifically didn't refer to this?

Q. No, what I mean is the exhibit you testified about this morning
did not contain a tabulation similar to the tabulation appearing on page 1
of Respondents' Exhibit No. 12, is that not correct? A. No, this was
529 in the exhibit I was looking at all the time.

Q. You identified and testified with respect to Respondents' Exhibit No. 4, Mr. Gilby, that Respondents' Exhibit No. 4 corresponds to the tabulation appearing on page 1 of Respondents' Exhibit No. 12? A. We didn't make any such tabulation with No. 4.

Q. That is what I said to start with, then, this tabulation in Exhibit 12 is a different type of tabulation than you identified this morning? A. That is correct.

MR. MILLER: If the Examiner please, at this time I again move that respondents' motion with respect to the receipt of these documents in evidence be denied. As I mentioned at the outset of my questioning this afternoon, I only had a chance to examine five pages of one of these exhibits and I have confined my questioning to those five pages but I think that questioning has amply demonstrated a complete lack of knowledge on the part of this witness with respect to the basic records from which these tabulations were made. I think also it demonstrates the necessity for having in this courtroom the basic records of Midwest Order Buyers, those records being records from which these tabulations were made, so I now renew my motion on both grounds.

PRESIDING OFFICER BAIN: I still believe those objections go
530 rather to the weight than to the admissibility of these exhibits. If
those are all the objections, why, the exhibits will be admitted.

(Thereupon the documents theretofore marked as Respondents' Exhibits Nos. 4 through 12 were received in evidence.)

* * * *

Q. Mr. Gilby, would you take your Exhibit No. 4, that's the one relating to the St. Louis Independent Packing Company, isn't that true?

A. Yes.

531 MR. MILLER: Just a minute, please.

BY MR. MELNICOFF:

Q. The first sheet of Exhibit No. 4 is dated January 31, 1957, is that right? A. Yes.

Q. Now, the St. Louis Independent Packing Company is one of the items mentioned in the Order of Inquiry, is it not? A. Yes.

Q. And this first sheet relates to the last item, in paragraph 4 on page 4 of the Order of Inquiry, is that right? A. Yes.

Q. Of January 31, 1957? A. Yes.

Q. Would you explain that exhibit to us?

MR. MILLER: The exhibit has already been explained. I object on the ground of repetition.

MR. MELNICOFF: Mr. Examiner, there are several things, the exhibits speaks for itself and I tell you in view of the complicated nature of this case, it was my thought this type of examination would be helpful.

PRESIDING OFFICER BAIN: Go ahead.

A. All right. Exhibit 4 shows column heading relative to the St. Louis Independent Packing Company's January 31, 1957 shipment. The head and weight column is the first two columns which represent the head shipped and the weight thereof shown on the invoice and represented by
532 reweighing, totaling, so far as the invoice is concerned, 256 head, 57,950 weight.

The next columns show the place of origin of four sows that are mentioned as four sows in the left-hand column, three in number, being the head, the buy weight being 1,600 pounds and the sale weight being 1,600 pounds. The total, then, is the same.

The next columns have to do with shipments relative to the shipments on these various--on this invoice showing the origin of it, that is where they were bought and from where they were shipped. On the four which is the first item shown hereon they came from CH, you will find these which is four head, the buy weight 570 and reweigh weight 570. In that case there was no reweigh and the purchase ticket was used.

On the next item, 219, it took eight items, three of which came from one country point, two from another, two from another, one other from one point. Totaling so far as head is concerned, 219 head.

The next column--

Q. (Interrupting) Pardon me. On that 219 head on the right-hand side fof the sheet, the buy weight was 45,080, is that right? A. Correct.

Q. And then upon a reweigh when they were sold the weight was
533 found to be 45,930? A. Correct.

Q. So a total gain of weight thereof was 850 pounds, is that right? A. Yes.

Q. On that one shipment, one item? A. One part of a shipment included in the invoice.

Q. That is correct? A. That is right.

Q. Let me direct your attention down farther on the page, there appears that a certain number of hogs involved in that shipment came from posted markets, is that right? A. Yes.

Q. Which posted market? A. Bushnell.

Q. And how many head? A. Three.

Q. By the way, what is the sale weight shown there? A. Sixteen hundred pounds.

Q. On the exhibit. Now, would you continue your explanation of that exhibit? A. Well, going down and explaining part of the shipments from the country points?

Q. Yes. A. The next are from three points, a total of 12, 3,090,
534 and the weight charged, 3,090, the reweight.

The next item from two points, 11 hogs, the reweight 3,365, the reweigh appearing on the invoice 3,365, a hundred pounds difference which is the difference between the reweigh and the purchase. From media one, with the same weight, 470 and 470.

The next one is another media of the five, 2,290 pounds, 2,220 pounds which is the buy weight and the reweigh is 2,220 pounds. You notice minus one there is picked up as an item 1, 470, 470 above that.

The next item is one, from one point, that is a sow, by the way, and all marked as to whether they are sows or regular, making a total of the whole of the purchases 253 in which the buy weight is 55,400 pounds and the reweigh weight, 56,350 pounds with a gain of 950 which is a difference.

Q. Would you direct your attention to page 2 of this exhibit which is dated March 29, 1956, is that right, the correct date?

MR. MILLER: What was the question?

MR. MELNICOFF: I wanted to direct his attention to page 2 which is dated March 29, 1956. A. Yes.

BY MR. MELNICOFF:

Q. Does page--do pages 3 and 4 relate to that date of March 29, 1956? A. They do.

535 Q. So in considering the March 29, 1956, item you must consider pages 2, 3, and 4 together, is that true? A. That is correct.

Q. And, of course, this item March 29, 1956, on page 4 of paragraph 4 is in the Order of Inquiry, is that true? A. Yes.

* * * *

Q. Mr. Gilby, I now direct your attention to page 2 of that Exhibit No. 4. Will you please explain that exhibit to us? A. That was made for the purpose of showing that those items appearing on page 3 do not include the total buy of some of these transactions. The same data is given on 3 as the other exhibits but in that summary, just to show the facts as appear in the records, some of the items have been chosen, of course, we could go through a lot more but I think these are the specific examples that will show the point, for instance, on page 3--

MR. MILLER (interrupting): Which exhibit is he--

536 THE WITNESS (interrupting): Page 1 and page 2 and page 3.

MR. MILLER: Of what exhibit?

MR. MELNICOFF: Exhibit 4.

MR. MILLER: I am sorry, I thought you were--I understood you were asking about Exhibit 5.

BY MR. MELNICOFF:

Q. I guess we are all clear now. Have you completed your statement, Mr. Gilby? A. No, I have not unless it is your wish that I conclude it.

Q. No, go ahead.

MR. MILLER: May I ask one question, please? What page of Exhibit 4 are we talking about?

THE WITNESS: Two is what he started with and now he is going back to 2.

MR. MILLER: Thank you, sir.

A. Now, as to the Order of Inquiry, on these items that are shown on page 2 there appears 136, you will find that, 1 through 8 columns, the Order of Inquiry refers on the first item to the 136 hogs, 29,265, 29,285 reweigh, an increase of 610. Now, the whole purchase was 239 hogs from Rushville although they appear on the Order of Inquiry without any postmark and the total weight of the 239 was 51,025 pounds.

Q. Fifty-one thousand twenty-five? A. Correct.

537 Q. And that was buy weight, is that right? A. That is the buy weight of the 239.

Q. That is correct, please continue. A. From that lot there was weighed off 103 hogs but the weight shown as weight was the reweigh or sale weight of that 103 leaving a balance which is not the true balance so far as the buy weight is concerned because the 103 had credited to it the sale weight. So instead of the 610 pounds shown here as gain it was not on the 136 pounds but it was on the 239 pounds or head which makes quite a difference as illustrated on the top analysis on the same page. Rushville, 239, 51,025 purchase, 103, 21,760 weighed off deducting from the purchase weight the sales weight, 21,760 leaving a balance of 136 in pounds, 29, 265 which is increase because the reweigh or sale weight has been deducted and so the balance then shows reweigh 29,875 which leaves this 610 pounds all on the 136 hogs.

Q. What is your intention-- A. (Interrupting) If this is on the 136 pounds there is a gain per head of 4.5 but if it is on the whole shipment it turns out to be 239 hogs and the gain being per head 2.5 pounds.

Q. Mr. Gilby, is it my understanding that it is your testimony that the total gain in weight, 610 pounds, should be apportioned to the 239 head, 538 is that right? A. That is correct.

Q. Now, if you haven't already, or explain to us why that is true? A. Well, in laying off or taking away from total shipment the first layoff which may be a shipment we reweigh and find the invoice weight. We have no way of identifying out of the 239 what cost weight there was so just to keep matters straight they continue on their memorandum record to show the balance always at the time of anything left, they keep taking off the reweigh weight as long as they have some of it which in the exhibit may show five hogs with the balance, sometimes no balance, or 50 hogs or 25 hogs with all the gain of that total purchase of hogs reflected in the balance which is incorrect.

Q. Now, is the procedure you have followed just described, rather, was that procedure followed in the other examples mentioned and cited on page 2 of Exhibit 4? A. That is correct, but may I add we haven't taken examples of every one we might find, we take a majority of these examples to show how effective it is in this Order of Inquiry.

Q. And to the extent this procedure has been followed in the other exhibits in this series, 4 to 12 inclusive, the explanation you now give would be applicable to those other examples? A. Yes.

539 Q. Is the procedure you have followed, is that in accordance with accepted accounting practices? A. Yes.

Q. Does it truly and actually reflect the facts as they were and are? A. Yes.

Q. And you certify them to be true and correct, is that true? A. I do.

* * *

541 Q. Mr. Gilby, would you please turn to your Exhibit No. 12 that concerns a Swift Company, I understand? Here is my copy of it.

PRESIDING OFFICER BAIN: That is the second copy for the record.

MR. MELNICOFF: Oh, is it? Excuse me.

BY MR. MELNICOFF:

Q. These are your papers? A. Yes, sir.

Q. May I have your copy of Exhibit No. 12? A. It isn't so marked but I take it to be.

MR. MELNICOFF: It is the exhibit concerning Swift & Company, I am sure it is Exhibit No. 12.

PRESIDING OFFICER BAIN: That is right.

BY MR. MELNICOFF:

Q. Would you turn to your analysis of the invoice for December 10,
542 1955, as an analysis of the Midwest Order Buyer invoice of that date of Swift & Company? A. December 10, 1955.

Q. December 10, 1955. According to Paragraph 4 of the order of Inquiry, the number of hogs involved there is alleged to be 835. Would you consult your analysis of this invoice and tell us the number of head involved? A. Eight hundred thirty-five.

Q. Wasn't there a great number of head involved in that case? A. You see, there are two dates here.

Q. Yes. A. There are in the analysis added hogs--

Q. That is true. A. (Continuing) --to make the total purchases.

Q. Would you give us the total purchases, then? A. To the total that is shown here on the 9th and 10th there should be added 350 hogs.

Q. So that was the total number of head involved in this transaction or transactions of December 10, 1955?

* * * *

543 Q. You say there should be added to that 350 hogs to make that figure of 835? A. You see, Mr. Melnicoff, these are analyzed together

and to this 835, which is together, should be added this 350.

Q. I understand that. So we should add 350 hogs to the 835?

A. Yes.

544 Q. And so that the total number of hogs involved in this transaction is 1,185, is that right? A. That is right.

Q. Is that straight and correct? A. That is this 350 and 835.

Q. Will you tell us how and why you want to add, you say should be added to the 835 hogs in Paragraph 4 of the complaint the 350 hogs that you say now should be added to increase that number to 1,185? A. I have to correct you again, Mr. Melnicoff. That analysis has to do with both this page and the next page.

Q. I understand that. A. All right, then, I say 835, that we have to add these 350.

Q. Is that right, should be added to these 350? A. It should be added to 835 plus 566, which is the total of this page. You went through this with me.

Q. What is the total number of hogs involved in this transaction without regard to pages or anything of the sort? You told me it is 1,185, is that right? A. Thirteen hundred ninety-one.

Q. All right, then, tell us why there should be 1,391. A. Add this to that.

Q. To what? A. The 350 to 1,391.

545 Q. Are we agreed, Mr. Gilby, that there is a difference? A. May I see what is on that?

Q. In the Order of Inquiry there is alleged to be a difference of 2,310 pounds on a transaction of December 10, 1955, between Midwest Order Buyers and Swift & Company, is that true, as alleged in the Order of Inquiry? A. The 12/10 date here is 835.

Q. Yes. A. But insofar as our record is concerned there are two dates in there.

Q. All right. A. All right.

Q. How many hogs are involved in that, in the difference of weight of 2,310 pounds? A. All right, there's 835.

Q. Alleged in the Order of Inquiry? A. Yes.

Q. How many hogs do you say should be included in that difference of 2,310 pounds? A. Three hundred fifty should be added to that.

Q. That makes a total number of hogs of what? Eight hundred thirty-five, isn't that right? A. Mr. Melnicoff, you see, the difference that you are coming to, there is another lot of hogs in there which take in 566--1,350 and 1,950, which is the--and in that 835, what is the gain
546 that you are asking for there now I will be able to reconcile?

Q. Twenty-three hundred ten pounds is alleged in the Order of Inquiry to be the difference in weight on the invoice of December 10, 1955. Do you see that on the Order of Inquiry, sir? A. I do.

Q. In the Order of Inquiry is alleged that gain in weight was realized on 835 head of hogs? A. Yes.

Q. How many head of hogs were involved in that gain of 2,310 pounds? You have told me it was 1,185 by adding 350 to the 835. A. You have to add, Mr. Melnicoff, these hogs which I have given you, 350.

Q. That is right, you must add 350 hogs to the 835? A. That is right.

Q. And therefore, the alleged difference in weight of 2,310 pounds was realized on 1,185 head and not on 835 head? A. That is right.

Q. Now, tell us why you want to add the 350 head to the 835. Show us from your exhibit here. A. Because 835 is not the total purchase or buy weight or buy that we are dealing with on this invoice.

Q. Do you have any piece of paper before you which reflects that
547 statement? A. I only have the piece of paper before me which is this analysis.

Q. Yes. A. Which would correspond with exhibits that have been filed and correspond with this.

Q. On the second page of this Exhibit No. 12, yes, why do you want to add the 350 hogs that are reflected here? A. For the reason purchase is 225, 200, thirty-two, and these specific items that are mentioned in here, as you see--

Q. Yes. A. (Continuing) --sixty-nine and seventy-three. Now, those lots were disposed of by weighing off the matter of sale, these that I am adding back on. In weighing these off, we have no knowledge of what the buy weight is, so in the practice the knowledge they have is only of the re-weighs, which are on an invoice to a customer of these particular items that were weighed off. So instead of deducting the portion of the cost from each one of these, they take the sales invoice and take the weight from the original purchase weight. This leaves a balance which is thought to be the true purchase weight.

Q. And for that-- A. Do you want me to go further?

548 Q. Yes. A. The balance on this weight is the item that appears on the Order of Inquiry which shows all this gain, that is shown out here on the 835 hogs.

Q. You say that is wrong? A. As portrayed right here from the records.

Q. That is on Page 2 of Exhibit No. 12? A. That is right.

Q. And on the lower portion of Page 2 of Exhibit 12, these various computations that you have been referring to are set forth, is that right? A. Based as to the items included here, yes.

Q. So on the basis of the information, among other things, shown on the second page of Exhibit No. 12, you have come to the conclusion and you therefore testify that there should be added to the 835 head of hogs alleged in the Order of Inquiry 350 head of hogs, is that right? A. That is right.

Q. So that just to make absolutely clear the figure in the third column under the heading "Number of Hogs" in Paragraph 4 on Page 4 of the Order of Inquiry, instead of being 835 you say it should be 1,185? A. With the 350 added, yes.

Q. Is that right, this figure of 835 should be 1,185? A. Yes.

549 Q. So that an alleged overage of 2,310 pounds, if it was realized at all, was realized on 1,185 hogs and not on 835 hogs? A. That is right.

Q. Very well. And could you tell us without giving us a great deal of explanation what would be the average added weight poundage per head under your calculation? That would be 2,310 divided by 1,185, would it not? A. The 1,185 would be divided into the gain as shown here.

Q. So that would be around two pounds, is that right? A. That is right, per hog.

Q. Per hog. Now, would you turn to--in the same Exhibit No. 12--to the invoice of December 12, '55? That is, Midwest Buyer Order, Midwest, Swift & Company, December 12, 1955. A. I've got it.

Q. Very well. The Order of Inquiry on that invoice shows the number of hogs involved to be 183, is that right? A. One hundred eighty-three.

Q. How many hogs are really involved in that? A. Three hundred and one.

Q. Will you tell us how you arrived at that conclusion of 301
should be included rather than 183? A. I took the invoice and found--
on the Order of Inquiry and found that this analysis was not a record of
550 the total purchases of any one lot appearing on there in respect to
those I have shown. I traced it back into the purchase record and found
that the order they have portrayed in this particular showing what we
call the balance after re-weighing. The balance gain is discovered by
taking the purchase weight, deducting the weigh-offs, which are other
purchases of somebody else, and from this purchase weight they have
taken the sales weight. They have no other record to take. So I have
done the same thing which means then that they show the whole gain on
the balance, which is the item as shown on the Order of Inquiry.

Q. And you say the whole gain should be shown not on the balance but on the entire purchase supply? A. Yes.

Q. You have been referring, I think you have, to Page 6 of Exhibit 12, is that right? A. Yes.

Q. Now, we turn to the invoice of December 17, 1955, the Swift & Company. A. Yes.

Q. Now, there the Order of Inquiry shows in connection with that transaction 271 hogs to be involved. A. On the Order of Inquiry?

Q. Yes. How many hogs are actually involved? A. Five
551 hundred.

Q. You have added, then, a considerable number to 271. A. One hundred twenty-nine.

Q. And with the explanation that you have given before in connection with the other items here that you have testified to just this morning applies to this as well? A. Yes, sir.

Q. And there is also a sheet in Exhibit No. 12 which reflects this computation? A. It does.

Q. Very well. Now, let's turn to the invoice of December 28, 1955, the Swift invoice. Now, there the Order of Inquiry-- A. This is the 28th, yes.

Q. The Order of Inquiry shows the number of hogs to be involved is 425. A. Right.

Q. How many head of hogs do you say should be involved? A. Six hundred eighteen.

Q. So you say the correct number of hogs instead of being 425 should be 618? A. Right.

Q. And you arrived-- A. As to that gain.

Q. I understand that. And the method by which you arrived at
552 that conclusion is the same as you have previously explained this morning, is that right? A. Correct.

Q. And there is also a sheet in this Exhibit 12 which reflects that computation? A. That is right.

Q. All right. Now, let's turn to the invoice of January 27, 1956. There the head count on the Order of Inquiry is 861. How many head do you say should be involved? A. January 27. All right, 861 plus 568.

Q. Making a total of how many? A. Fourteen hundred and twenty-nine.

Q. And you arrived at that conclusion by the same method as you have heretofore described? A. Yes, sir.

Q. And there is a sheet in Exhibit 12 which reflects that computation? A. Yes, but in order. This sheet comes after the invoice sheet rather than before.

Q. But the sheet is there? A. Right.

Q. Right. Now, let's turn to the invoice of March 27, '56. That is the Swift invoice as well? A. That is right.

Q. Now, Mr. Gilby, I here show you Complainant's Exhibit 2 and
553 I direct your attention to the line on Exhibit No. 2, Complainant's Exhibit No. 2, which purports to set forth that transaction. Do you see it, sir? A. I do.

Q. Now, on that exhibit, in the second column on the page, pardon me, the third column, there appears the wording under the heading "Where purchased", "Seven points in Springfield". Do you see that? A. I do.

Q. Now, by seven points, what do you understand that exhibit to mean? A. Seven other market points.

Q. That is seven country points? A. Yes.

Q. Other than yards? A. Yes.

Q. And also there appears on that the phrase "And Springfield (fifty-six)", do you see that? A. I do.

Q. What does the word "Springfield (fifty-six)" mean? A. It would suggest that there's thirty-six in there from Springfield.

Q. Fifty-six. A. Fifty-six from Springfield.

Q. Now, in your analysis that you have before you now, how many points do you show, country points had hogs in that transaction? A. I
554 would have to count these.

Q. Well, you have counted them, are there four?

(No response.)

Q. Is it your testimony that there are four rather than seven? A. Yes.

Q. And according to your analysis there are two posted yards, Springfield and Bushnell, involved rather than one? A. Correct.

Q. And all the information that you have now given me to these number of points and to the fact that there are two posted yards involved are contained in the sheet before you which is a part of Exhibit 12? A. Right.

Q. And what you have done is to count up the number of points shown? A. Yes.

Q. So that in the event anyone wants to check your testimony all they have to do is count the number of points? A. That is right.

Q. Now, in connection with that transaction, the Order of Inquiry discloses or alleges that 351 hogs were involved. How many hogs do you say are involved? A. Three hundred fifty-one plus 170.

555 Q. That would be a total of 521, right? A. Right.

Q. And you arrived at that additional number of hogs by the method heretofore described? A. Yes.

Q. And there is a sheet in your Exhibit No. 12 which reflects that computation? A. There is.

Q. Now, for the transaction of April 16, 1956, let me direct your attention again to Complainant's Exhibit No. 2. How many points does that exhibit say were involved in this transaction? A. It says seven points.

Q. And Springfield, that is right. A. And Springfield.

Q. How many points do you say are involved in that transaction? A. This I previously counted?

Q. Yes. A. Do you want me to count them again?

Q. You have counted six, is that right? A. That is right.

Q. And that is reflected on a sheet in Exhibit No. 12? A. Yes.

556 Q. And all you have to do is count the number of points? A. Yes.

Q. You say there are six, is that right? A. Yes.

Q. Instead of seven? A. Yes.

Q. The number of head involved is alleged in the Order of Inquiry as being 343. You say there should be how many? A. Three hundred forty-three.

Q. Plus how many more? A. No more.

Q. How many? A. Maybe I am overlooking--this is on what date, March 27?

Q. March 16. A. Oh, pardon me. I have April 16 here.

Q. You are right, it is April 16. I couldn't count. It is 4/16/56.

My reference, Mr. Gilby, should have been for April 16, 1956. A. You asked me if there are any other hogs involved in that purchase?

Q. Yes. This is a Swift transaction. A. Yes, I know, yes.

Q. How many? A. Two hundred nine.

557 Q. So if we added 209 to 343 alleged in the Order of Inquiry it makes a total of 552. A. That is right.

Q. So it is your testimony now that the total number of hogs involved is 552 and not 343? A. Correct, sir.

Q. And there is a sheet in your exhibit No. 12 which reflects that computation? A. That is right.

Q. And it was arrived at in the method and manner that you heretofore described? A. Correct.

Q. Now, would you turn to the invoice of May 11, 1956? A. I have it.

Q. Now, there is an error in addition there, is that right? Will you point that out, please? A. Oh, I see what you are getting at. It would be found in a footnote on this exhibit which tells about it.

Q. Well, if that footnote explains it we will leave that go for the moment.

Now, on January 5, 1957, the Swift transaction, would you refer to that please? A. 1957?

* * * *

558 Q. You are referring to January 5, 1957. There the Order of Inquiry alleges that 682 hogs were involved. How many hogs do you say were involved? A. Eight hundred forty-seven.

Q. And is there a sheet in that exhibit which reflects your computation? A. There is.

Q. And the method is that which you have previously described, is that right? A. That is right.

Q. Would you put aside that exhibit, please, and we will go to another? A. Yes.

Q. Would you take your Exhibit No. 8, the Val Decker Packing Company for December 14, 1955? A. I have it.

Q. That is the invoice of December 14, 1955, is that right?

A. Yes, sir.

Q. Involving 404 hogs, is that right? A. Four hundred four hogs.

Q. Now, let me refer you to the Complainant's Exhibit No. 2 and ask you to state what appears under the column on Complainant's

559 Exhibit No. 2 headed "Where Purchased". A. Five points and Bushnell, 128.

Q. What does that information mean to you? A. It means that they have used hogs originating from five country markets and Bushnell posted market.

Q. According to your analysis of that transaction that you have before you and which is in this record as Exhibit No. 8, were any hogs involved there from Bushnell? A. There were not.

Q. So that whatever hogs there were which we are concerned there with hogs which originated at the country points? A. That is right.

Q. Very well. Would you please turn to Respondent's Exhibit No. 11, please? That is the Home Packing Company. A. I have it.

Q. Would you turn to the transaction of December 19, 1955? A. I have it.

Q. Now, I call your attention to Complainant's No. 2, to the item dated December 19, 1955, and ask you what appears under the column "Where Purchased" on Complainant's Exhibit 2. A Five points and Springfield, 139, and Bushnell, 131.

* * * *

560 Q. In your analysis of this transaction were there any hogs involved there which came from Bushnell? A. There were not.

Q. So that the statement on Complainant's Exhibit No. 2 that hogs were involved, that part of the hogs involved in that transaction came from Bushnell posted yard is in error, is that right? A. I would take it to be.

Q. According to the Order of Inquiry 595 hogs were involved in that transaction. A. Right.

Q. The transaction of December 19, 1955, how many hogs do you say should be there? A. Eleven hundred and twenty-four.

Q. Very well. And was that computation arrived at in the manner you have heretofore described? A. Yes, sir.

Q. And is there a sheet in your exhibit reflecting that computation? A. There is.

Q. Now, would you turn in the same exhibit to the invoice of December 27, 1955? A. Right.

Q. And I also at this time again refer you to Complainant's Exhibit No. 2, for the same date, that is, December 27, 1955. A. Yes.

561 Q. Now, that exhibit says there three points and Bushnell, does it not? A. Yes.

Q. And as you have hitherto explained, that means that hogs came from three country points and Bushnell, a posted yard, is that right? A. That is right.

Q. Do you find any hogs as having come from Bushnell? A. I do not.

Q. So that statement on Complainant's Exhibit No. 2 is in error in showing hogs having come from Bushnell? A. That is right.

Q. And the only hogs there came from country points? A. That is right.

Q. And that is reflected on your sheet in Exhibit No. 11? A. That is right.

Q. Now, according to the Order of Inquiry the number of hogs allegedly involved in this transaction, there's 256. How many hogs do you say? A. Three hundred sixty-five, I added 109.

Q. So the number of hogs involved is 365 not 256? A. That is right.

Q. And you arrived at that in the manner as hitherto described?

562 A. That is right.

Q. And there is a computation in your sheet described Exhibit No. 11? A. Yes.

Q. And now, let's turn to a sheet dated February 13, '56, and I again refer you to Complainant's Exhibit No. 2 and ask you how many points are set forth in Complainant's Exhibit No. 2 as being involved in this transaction. A. This is Home Packing?

Q. Yes. A. There are six points and Springfield.

Q. How many points do you say are involved? A. I would have to count them from here and I have done that and given you a record.

Q. It is your testimony that you have counted them and I believe we have a record here showing there are seven points instead of six. A. That is right.

Q. And you arrived at that by counting the number of points as set forth in Sheet No. 11? A. Yes.

Q. You say there are seven instead of six? A. That is right.

Q. The number of hogs alleged to be involved in this transaction is 688. How many hogs do you say were involved? A. Eight hundred

563 fifty-seven. Is that 688 though?

Q. Six hundred eighty-eight. A. Six hundred eighty-eight. Add 249 to that.

Q. That would give you 937, is that right? A. Right.

Q. And the method by which you arrived at that computation is set forth in your exhibit? A. That it is.

Q. And there is a sheet in there reflecting your computation? A. There is.

Q. We have done the same on this as we have done on all the others? A. Right.

Q. Now, let's turn to the transaction of February 16, 1956. A. All right.

Q. I herewith hand you again Complainant's Exhibit No. 2 and ask you how many country points are alleged to be concerned with this transaction according to Complainant's Exhibit No. 2. A. Nine country points.

Q. And is it your testimony that you have counted them and that you find there are eleven points instead of nine? A. That is right.

564 Q. Very well. Now, let's turn to the transaction of March 12, 1956. A. All right.

Q. Does the Order of Inquiry allege 569 hogs to have been involved? How many hogs do you say were involved? A. Seven hundred seventy-five.

Q. And that computation is based on material on a sheet in your exhibit, is that right? A. That is right.

Q. And you arrived at that in the same manner as you have the others? A. Right.

Q. Now, let's turn to the transaction of April 9, 1956. A. O.K.

Q. Now, it is true, Mr. Gilby, that on Complainant's Exhibit No. 2 it is stated that ten country points and Springfield and Bushnell are involved, is that right? A. Ten points and Springfield and Bushnell?

Q. Yes. A. Yes.

Q. And is it your testimony that there were only nine country points instead of ten? A. That is right.

Q. Now, as to the number of hogs involved, the Order of Inquiry
565 says 510. How many do you say are involved? A. Six hundred forty.

Q. I take it, then, that you are adding 130, is that right? A. That is right.

Q. And that is based on computation which appears in your exhibit? A. That is right.

Q. And the method is that as you have hitherto described? A. That is right.

Q. Now, we will turn to the transaction of April 17, 1956. A. Right.

Q. Do you have that, sir? A. Yes.

Q. Now, the Order of Inquiry alleges a difference in weight to be 1,800 pounds. Do you have any comment on that? A. It is correctly stated at 1,700.

Q. The exhibit shows 1,700? A. This exhibit here shows seventeen.

Q. The exhibit that you have before you? A. Yes.

Q. And the Order of Inquiry, to that extent, you say is incorrect? A. Yes.

566 Q. It should be 1,700 pounds difference instead of 1,800? A. That is right.

Q. The Order of Inquiry reflects a hog count of 576. How many hogs do you say are involved? A. Six hundred forty-one.

Q. That means you are adding sixty-five hogs to the 576? A. Yes.

Q. There is a computation in your exhibit which reflects that? A. Yes.

Q. And the method is as hitherto described? A. Yes, it is.

Q. And would you turn to the invoice of March 28, 1956? A. Is this the same?

Q. Pardon me, April 28, 1956. A. April what?

Q. April 28, 1956. Now, the Order of Inquiry alleges that the difference in weight amounts to 1,550. A. Yes.

Q. Do you have any comment on that? A. It is correctly stated here as 1,260.

Q. So you state that the Order of Inquiry is incorrect when it states a difference of 1,550? A. Yes.

567 Q. And the correct amount is 1,260? A. Yes.

Q. As to the number of hogs, what do you say as to that? A. Four hundred sixty hogs.

Q. You would add sixty-four to 396? A. Yes.

Q. And there is a sheet in your exhibit which reflects that computation? A. Yes.

Q. And the method followed is that which you have hitherto described? A. Yes.

Q. And would you turn, please, to your invoice of May 1, 1956? Do you have that, sir? A. I do.

Q. Now, the number of hogs alleged in the Order of Inquiry is 285, is that right? A. Yes.

Q. How many hogs do you say are involved? A. Seven hundred twenty-six hogs.

Q. By that I take it you would add 441 hogs? A. That is right.

Q. And there is a sheet in your exhibit reflecting that computation? A. There is.

568 Q. And the method follows that which you have hitherto described? A. Right.

Q. Would you turn now, please, to the invoice of May 9, 1956?

A. All right.

Q. The number of hogs alleged in the Order of Inquiry is 530. How many hogs do you say are involved? A. Seven hundred thirty-seven.

Q. And by that I take it you would add 207, is that right? A. That is right.

Q. And the computation by which you arrived at that conclusion is reflected by a sheet in your exhibit, is that right? A. That is right.

Q. And you have followed the same method as you have previously described? A. That is right.

Q. Thank you. Would you turn to Exhibit No. 6, please, as Kingan & Company? A. What date?

Q. Pardon me, sir. You have that exhibit now I take it?

569 A. What date?

Q. December 21, 1955. A. O.K.

Q. These involve the transaction as involved in the Order of Inquiry in Paragraph 4 involving Kingan, is that right? A. That is right.

Q. Now, Mr. Gilby, I call your attention to Complainant's Exhibit No. 2, for the same date, which shows, does it not, that the hogs involved according to this exhibit came from three country points and from Bushnell? A. Right.

Q. And the sixty-six hogs came from Bushnell? A. That is right.

Q. And that is what is shown on Exhibit No. 2? A. That is incorrect.

Q. To what extent is that incorrect? A. There are none here from Bushnell.

Q. Oh, so the only hogs involved in this transaction are those which came from country points? A. Yes.

Q. No posted yard involved? A. No posted yards.

Q. The record is incorrect as it appears in Complainant's Exhibit No. 2? A. That is right.

570 Q. Now, the Order of Inquiry alleges the number of hogs to be involved is 236. How many hogs do you say were involved there? A. Four hundred seventy-seven.

Q. By that I take it you would add 241? A. That is right.

Q. There is a sheet in the exhibit which reflects that computation? A. That is right.

Q. And the method followed is that which you have hitherto described? A. Yes.

Q. Would you turn to the invoice of June 12, 1956? A. Yes.

Q. And the Order of Inquiry there recites the number of hogs involved as being 734. How many hogs do you say are involved? A. Ten hundred and forty-three.

Q. By that I take it you would add 309? A. That is right.

Q. And there is a sheet in your exhibit which reflects this computation? A. That is right.

Q. Would you turn now to the invoice of July 21, 1956? A. O.K., yes.

571 Q. The Order of Inquiry there alleges the number of head involved to be 565. How many head do you say are concerned? A. Six hundred seventeen.

Q. By that I take it you would add fifty-two, is that right? A. That is right.

Q. Very well. Will you turn to the invoice of September 15, 1956? A. Yes.

Q. Now, according to Complainant's Exhibit No. 2, how many points are involved? A. Five points and Bushnell.

* * * *

Q. There are twelve points according to your knowledge? A. According to the count I made.

Q. You made this count earlier? A. Yes.

Q. And all the names of the points appear on your exhibit? A. That is right.

Q. All you have to do is count the same as you did? A. That is right.

572 Q. Now, the difference in weight in the Order of Inquiry is alleged to be 2,000 pounds. Do you have any comments on that? A. There is a five-pound error, it is 1,955.

Q. You mean there is a forty-five-pound error I take it? A. You say the Complaint shows--

Q. Two thousand pounds. A. The difference between 1,955 and 2,000 is forty-five.

* * * *

Q. Before we go on, I understand that there is a typographical error on Exhibit No. 6. Would you please point that out and make a correction for the record, please? A. No No. 6 here.

Q. The Kingan exhibit.

MR. MELNICOFF: Mr. Examiner, could I make a correction for the record? It is the last sheet on the Kingan exhibit, Kingan & Company. The correct date is December 21, 1955, instead of that which appears typed. The sheet is further identified by the words "236 lot".

573 PRESIDING OFFICER BAIN: That is apparently corrected, dated December 21, 1955, in the original exhibit. On the paper that is assorted to it, it shows heads shorted off and so forth. The date has been scratched out and made 12 in ink. I can't tell what it was in type before it was changed, but on the sheet that says "236 lot" the typed date is December 21, 1955.

THE WITNESS: That's been changed.

MR. MELNICOFF: All right.

Mr. Examiner, the sheet immediately preceding the "236 lot" is a half sheet and is identified in the lefthand side under the heading, Place: S. Bone, Bone Cartage, Palwryva. That date, too, should be December 21, 1955.

BY MR. MELNICOFF:

Q. I refer you to Exhibit No. 5, Respondent's Exhibit No. 5. This concerns Hunter Packing. I refer you to the transaction of March 7, 1956. The difference is alleged to be 1,815 pounds in the Order of Inquiry. A. March 7, 1956?

Q. Yes. A. Of Hunter Packing Company?

Q. Yes. A. March 7, where is the paper that belongs to it?

Q. Do you have any comment on that figure? A. Yes, the correct difference is 1,805 pounds.

574 Q. And that is reflected on a sheet in your exhibit, is it? A. It is.

Q. Now, in the Order of Inquiry the number of hogs alleged to be involved is 639. What do you say as to that? A. I have 278.

Q. Making a total of 917, is that right? A. That is right.

Q. And that computation is reflected in a sheet in your Exhibit No. 5, is that right? A. That is right.

Q. And the method by which you arrived at that conclusion is that which you have described? A. Yes.

Q. Now, the invoice for August 13, 1956-- A. I have it.

Q. The difference alleged in the Order of Inquiry is said to be 1,000 pounds. What do you say as to that? A. The correct difference is 975 pounds.

Q. The method by which you arrived at that and the computation on which that is based is reflected in your exhibit I take it? A. It is.

Q. Now, let's go to the invoice of September 6, 1956. A. I have it.

575 Q. There the number of hogs is alleged in the Order of Inquiry to have been 869. What do you say as to that? A. There ought to be added to that 342.

Q. Making a total of 1,211, is that right? A. Right.

Q. And the computation by which you arrived at that conclusion is set forth in a sheet in your exhibit, is it not? A. It is.

Q. And the method used is that which you have hitherto described, is that right? A. That is right.

Q. Would you turn to your exhibit involving John Morrell & Company and Prusan Company, that is your Exhibit No. 9, and I ask you to turn, if you will, to your transaction of March 17, 1956. The Order of Inquiry connected with that transaction alleges the number of hogs to have been involved as 326. What do you say as to that? A. Add 129.

Q. Making a total of 455? A. Yes.

Q. And the computation by which you arrived at that conclusion is set forth on a sheet in your exhibit, is that right? A. Right.

Q. And would you turn to the invoice of March 20, 1956, also on Exhibit No. 9? Do you have that? A. Yes.

576 Q. The Order of Inquiry alleges the difference in poundage to have been 1,270 pounds. Do you see that? A. I do.

Q. What do you say as to that? A. It should be 1,370 pounds.

Q. One hundred pounds added? A. Difference, yes.

Q. And the method by which you arrived at that conclusion and the data upon which it is based is set forth in your exhibit? A. It is.

Q. Now, I will ask you to turn to the invoice of June 14, '56.

A. June 14 or 4?

Q. Pardon me, you are correct, it is June 4. The poundage alleged in the Order of Inquiry is 1,345. What do you say as to that? A. Thirteen hundred thirty-five that should be.

Q. And the data upon which you base this conclusion is reflected in your exhibit I take it? A. That is right.

Q. Thank you. Now, would you turn to your exhibit No. 10, Heil Packing Company, and would you turn to the invoice of September 7, 1956? A. All right.

577 Q. There the number of hogs is alleged in the Order of Inquiry as having been 744. What do you say as to that? A. Add 215.

Q. So the total number of hogs actually involved, you say, is 959? A. Correct.

Q. Nine hundred fifty-nine, and the computation upon which that is based, I take it, is contained in a sheet in your exhibit? A. That is right.

Q. And the method used is that hitherto described? A. That is right.

Q. Will you turn to the invoice that is recited in the Order of Inquiry as being dated October 19, 1956? What is the correct date of that invoice? A. It is shown here as October 20.

Q. You show the invoice as being October 20? A. Yes, sir.

Q. And the number of hogs involved is alleged in the Order of Inquiry as having been 353? A. Right.

Q. How many hogs do you say should have been involved there? A. Four hundred sixty-seven.

Q. That is, you add 114? A. That is right.

578 MR. MILLER: With respect to your last two questions concerning date of the invoice, may we stipulate that the transaction which is alleged in Paragraph 4 under date of 10/19/56, that the invoice in that transaction was 10/20/56?

MR. MELNICOFF: Yes, of course. Would you give me my last question before the stipulation?

(Question read.)

BY MR. MELNICOFF:

Q. And of course, Mr. Gilby, as in all of the other instances in this series, your computations are reflected by a sheet in your exhibit? A. Correct.

Q. And the method used is that hitherto described? A. Right.

* * * *

Q. Mr. Gilby, referring if I may to Complainant's Exhibit No. 1 and to Complainant's Exhibit No. 2, I call your attention to the column in your heading "Invoice Weight". Do you see that there? A. Yes.

579 Q. The testimony in this record was by the witness who testified for the government, who testified with respect to this exhibit, that these headings appearing on Exhibit No. 1, all of them including that headed "Invoice Weight", were designations created by the witness and designations which in his judgment correctly describe the information appearing thereunder. Now, what do you understand the figures, what do you know the figures under the heading "Invoice Weight" represent? A. That is the re-weigh, at time of shipment, and is also the invoice weight.

Q. That is right. Now, will you explain to us how that invoice weight figure gets into the books and records of the Midwest Order Buyers? A. It gets into the record from information from the place from which it is shipped, and then becomes an invoice, and then becomes a posting in the record of final entry.

* * * *

581 Q. When a country point, Midwest Order Buyer country point moves livestock, hogs from that country point, what procedures are followed? A. First of all, it is decided where the hogs which have been bought are to go.

Q. Of course. A. In every case where it is the same at that time there is a re-weighing on their own scale, the same scale as they weigh in on. That is reported to Chapin and becomes a matter of record to make the invoice, and I enter that invoice on the books of final entry.

Q. All right. On this same Exhibit No. 1, Complainant's Exhibit No. 1, there is a heading called "Buy Weight". You have seen that, haven't you? A. Yes.

Q. We have said that this is the known place designation adopted by a person who prepared Complainant's Exhibit No. 1. Will you tell us what you understand that phrase "Buy Weight" to mean? A. That

582 is the weight reported by each on the daily sheet--

Q. How is that buy weight returned? A. I didn't finish.

Q. Finish with your answer. Excuse me. A. (Continuing) --on the daily sheet by the place that buys, and it is reported also in connection with the checks paid out in connection with these purchases. That is sent to Chapin and becomes the basis of entries in the final record.

Q. When a Midwest country point purchases hogs, are those purchased according to weight? A. Yes.

Q. Are they weighed in at the time the purchase is made? A. Yes.

Q. On a scale provided for that purpose at the country point? A. Yes.

Q. You have seen these scales? A. Most of them, I haven't visited every one.

Q. You have seen more than several, I take it? A. Oh, yes.

Q. Are you familiar with the scales that are on the points that you have visited? A. Yes.

583 Q. They are adequate for the purpose, I take it, that they are used for?

MR. MILLER: I object to that question. I don't think this witness has been qualified as a scale expert.

MR. MELNICOFF: I will ask the question in this way.

THE WITNESS: I know what you are required to have.

BY MR. MELNICOFF:

Q. How large are these scales approximately? A. Oh, it may vary, but usually we could put ten, twenty-five, fifty hogs on the platform. They are platform scales.

Q. By whom are they manufactured, do you know? A. Well, most that I have seen, Fairbank-Morse.

Q. Is that a recognized scale manufacturer to your knowledge? A. Yes.

Q. Are these the type of scales that are generally used throughout the stockyard-stock purchasing industry? A. Yes. You are not talking about Fairbank-Morse. There may be another manufacturer, but it is the type of scale. A lot of smaller places don't have that scale. You said throughout the industry.

Q. Yes. Well, I meant that. Basing your answer, now, upon your experience, your personal knowledge and contact with this stockyard 584 industry and the stock-purchasing industry, are these the kind of scales that are used in that industry? A. Yes.

Q. Are they tested by anybody, if you know? A. Yes.

Q. By whom? A. They are tested by the state, Fairbank-Morse.

Q. And how often are they tested? A. They are tested by ourselves. It varies.

Q. Your own firm, that is, Midwest also tests these scales at frequent intervals? A. Yes.

Q. Do you know whether or not any state or federal agency ever tests these scales? A. Yes.

Q. Which state or federal agency? A. Illinois.

Q. The State of Illinois? A. Yes.

Q. By whom is that testing done? I don't mean the person but the agency. A. A representative of the state.

Q. Could you give his title more precisely? A. I cannot give you the title of the department that sent the man out to test.

585 Q. But there is to your knowledge-- A. A department in the state.

Q. A department that is required to test these scales? A. Yes.

Q. And they do test these scales? A. Yes.

Q. And you said something about the scale manufacturer itself conducting the test. A. They are required to keep the scale in order in connection therewith. As a matter of fact, we want them tested and we will ask for it.

Q. Now, when a farmer or producer brings hogs into a Midwest country point, is he in any position physically to witness the weighing of his stock? A. Yes.

Q. Would you explain that to us, please, drawing upon your experience and giving us an example, if you can? A. I have witnessed it. The farmer comes in and has some hogs. He wants to sell them. They are unloaded, maybe weighed right away, it depends upon the circumstances, but then they are weighed on the scale and that becomes the basis of the amount that is paid the farmer. As a matter of fact, our policy, speaking of Midwest, the farmer can see it weighed. He can go in there and weigh it himself. Of course, we will see what weight it comes to, but he is allowed to weigh it.

586 Q. Is he invited to witness the weighing of the stock? A. He is, yes.

Q. And the weighing is made at the time of purchase, is that true? A. Well, at the time it is made, yes, if convenient. It may be a little time before it gets to the scale. He is there to get his check after it is purchased.

Q. But the weighing is made at the time of purchase, is that right? A. Approximately, yes.

Q. And then immediately after the stock is weighed is it your testimony that the farmer is paid, is that right? A. Yes.

Q. Paid by whom? A. By the man at that particular point.

Q. We are talking about a Midwest Order Buying point? A. That is a Midwest employee who operates that market.

Q. Is he paid in cash or check? A. Check.

Q. Whose check is that? A. Midwest Order Buyer.

Q. By whom is it signed? A. By the man at the point.

Q. And for what amount is that, how is that amount calculated?

587 A. I have taken the weight applied to the price established at the market at which he sells it, applied by the weight that becomes the amount.

Q. And the price is that upon which the parties have agreed before the purchase is made? A. At that date, yes.

Q. And Midwest buys the hogs at that point? A. Yes.

Q. Midwest is a dealer, in other words? A. Yes.

Q. Takes title to the hogs? A. Yes.

Q. As a matter of fact, aren't these all dealers' transactions? A. All that I am connected with, yes.

Q. Now, you have described to us in some detail the purchasing. Now, eventually those figures appear in the books in Chapin is that right? A. That is right.

Q. And those figures as they appear in the books in Chapin represent the buy weight according to a scale take? A. Yes.

Q. Now, is that the weight to which I understand you have referred to as a cost weight, is that right ? A. As a buy weight, correct.

588 MR. MILLER: May the Examiner please, I have been extremely tolerant this morning of this type of questioning by counsel for the respondent. I will make an objection to any further questions by counsel for the respondent whereby counsel for the respondent is testifying. These are grossly leading questions and I think counsel for the respondent

should allow the witness to testify.

MR. MELNICOFF: I am not going to argue. I want to remind the Examiner that this man is an expert and for that reason the sting of a leading question is not as sharp as otherwise, but I will let the witness talk.

BY MR. MELNICOFF:

Q. The weight that we have been talking about, how do you describe that? A. That is the weight arrived at on the scales at the purchase point on which the payment to the farmer is based.

Q. That is the weight that you have used or what other term have you used to describe that weight other than buy weight? A. Purchase weight.

Q. Cost weight, you say? A. Cost, because that becomes the cost in our final records.

Q. Now, what happens to that weight as it is determined at the individual country buying point? What is the next step and procedure with regard to that weight? A. The farmer goes away happy and the
589 hogs are ours.

Q. What does your country point buyer do at that point with that information? A. He lists it on a daily sheet and if it is big enough he probably has a yard sheet in which he is going to sort those hogs.

Q. Does he ever transmit that information anywhere? A. He sends it to the Chapin office. It shows the correct numbers and the date according to each transaction.

Q. What is done with it in Chapin? A. It is summed up and made an entry on our general books.

Q. And it is? A. It will be in the cash book, that is, probably not a general book. That is a prior record, as you know, and from there it becomes a record in the ledgers.

Q. Is that the kind of information that appears on what the witnesses here described as the lefthand side of the distribution book, I believe they call it? A. I would have to look up what they describe.

Q. Assuming for the moment that the information here I am pointing to, pardon me, buy weight on Complainant's Exhibit No. 1, would that be the kind of information that you are talkong about that would appear on the books of the Midwest Order Buyer? A. This is the total sum.

590 This is No. 1 and No. 2. Here it says "Buy Weight". That is the data that is shown there.

Q. Now, Mr. Gilby, you have testified here previously and particularly this morning that the method followed by the complainant in determining the number of hogs to which an alleged gain in weight should be allocated was erroneous, is that true? A. With respect to this weight?

Q. Yes. A. This weight may be right in the total, but in the breakdown of a part of that weight is what is on the Order of Inquiry, and it shows all the gain on that part.

Q. Have you finished your answer? A. Yes.

Q. Therefore, to the extent as you have hitherto testified, and we are not going to ask you to repeat it, the figures appearing in the Order of Inquiry depend upon an original buy weight? A. Correct.

Q. To that extent those figures are incorrect, is that right, since they do not reflect the sort-offs and weigh-off? A. That is right, in the Order of Inquiry.

Q. That is right. A. As to the Order of Inquiry.

591 Q. Now, Mr. Gilby, when a sale is made of hogs, or let's put it this way, by whom were all the hogs involved in this Order of Inquiry sold? What was the name of the seller? A. Midwest Order Buyers.

Q. How did Midwest evidence those sales? A. By an invoice.

Q. On what kind of an invoice, bill head? A. On a bill head that said "sold to".

Q. Was it a Midwest Order Buyer? A. Yes, Midwest Order Buyer.

Q. Now, you have testified that Midwest has several country points at which it purchases hogs. That is true, is it not? A. At which it has purchased hogs.

Q. And at which it does purchase hogs. A. Talking about this minute?

Q. Yes. A. Yes.

Q. Does Midwest buy hogs at any other places other than a country point? A. It buys at this posted yard that we are talking about. It buys from the yard, let's put it that way.

Q. And in this Order of Inquiry and in the various exhibits that we

592 have mentioned, particularly let's take Complainant's Exhibit No. 2, where they have the phrase "so many points and Bushnell", your testimony has been, has it not, that the reference to the word "points" is country points and Bushnell, for example, is a reference to a posted yard, that has been your previous statement? A. I have said the purchase called Bushnell or Springfield was when it was from a posted yard. All the other purchases, seven points, are country points.

Q. Now, how does Midwest-- A. Midwest Order Buyers.

Q. Now, how does Midwest purchase stock hogs, from a posted yard? A. By ordering the shipment is fulfilled, they pay for it on arrival.

Q. Is it your statement, now, that Midwest issues a check in payment of these purchases? A. Yes.

Q. And are these purchases from a posted yard made pursuant to a weigh in on the posted yard? A. Yes.

Q. And is that purchase from a posted yard pursuant to such weighing evidence by a scale ticket? A. Yes.

Q. And where is that scale ticket made in the case of a purchase?

593 A. At the posted yard.

Q. And at that point is it your testimony that Midwest has made a purchase of the stock, hogs involved, is that right? A. That is right.

Q. Now, what does Midwest do with stock hogs that it may have purchased from a posted yard? A. It becomes a sale to a packer.

Q. Does it subsequently resell them to a packer? A. Yes.

Q. And the invoice with which we are here concerned, those by Midwest, are those resales by Midwest to a packer? A. Yes.

Q. Have you told us to whom the packer makes payment for these purchases from Midwest? A. The funds are Midwest funds, if that's what you mean, yes.

Q. The packer pays Midwest for what they buy? A. That is right.

Q. Mr. Gilby, you have stated in connection with your qualifying testimony that you have been involved in the stockyard industry for a great many years and that you have been particularly concerned with the Sparks, with Harry Sparks for more than several years, that is true, is it not? A. That is true.

594 Q. Are you familiar with various entities under which business is conducted? A. Yes.

Q. Would you please state what those entities are? Do you want the question repeated? A. I would like to have the question repeated and the question before that.

(Questions read.)

A. There is an entity of H. L. Sparks & Company, National Stockyards, Illinois. National Stockyards, Illinois, is where it operates. There is an H. L. Sparks & Company of Peoria, Illinois, again, that shows where it operates. H. L. Sparks & Company of Bushnell, Bushnell, Illinois. H. L. Sparks & Company of Springfield, up to the end, practically, of 1956.

Q. Does that conclude it? A. No, it does not.

Q. Excuse me. A. There is Bushnell Stockyards Company, Bushnell, Illinois. There is Midwest Order Buyers, Chapin, Illinois.

Q. Are these all separate entities? A. Yes.

Q. Do they file separate income tax returns? A. They do.

595 Q. For how long have they been filing such? A. As long as they have existed. Entities have changed and partnerships.

Q. You said something just a moment ago, would you please repeat it? A. Right now?

Q. Yes. A. Entities have changed as far as partners are concerned.

Q. By that, I take it, you mean that at various times there have been various members of these several entities? A. Yes.

Q. And they have changed from time to time, is that right? A. Yes.

Q. And for various reasons, I take it? A. Yes, for good reasons.

Q. That is, reasons which were good and appropriate, desirable in view of the persons involved? A. Correct.

* * * *

596 Q. Mr. Gilby, in connection with the allegation alleged in Paragraph 6 of the Complaint-- A. What page?

Q. Page 5. Do you know whether or not there ever existed any scale tickets for the hogs which were weighed as alleged in Paragraph 6?

Strike that question here.

Let me show you, for example, Complainant's Exhibit No. 7, which has been offered and received in evidence in this case. Do you see attached thereto as Exhibit No. 8--No. 7 is an invoice and No. 8 are photostatic reproductions of a series of scale tickets, isn't that right? A. They are photostats of scale tickets.

Q. What do you call those scale tickets? A. I call them summary scale tickets.

MR. MILLER: What?

THE WITNESS: Summary scale tickets.

BY MR. MELNICOFF:

597 Q. What do you mean by summary scale tickets? A. I mean that they are scale tickets. Back of which are the scale tickets, when shipped from each of the country points, if it was a country point or any other point it was shipped.

Q. Now, Complainant's Exhibit No. 7 is an invoice, isn't that true? A. Yes.

Q. And for what is that an invoice? A. It is an invoice for the shipment to Heil Packing Company by Midwest.

Q. At the time that shipment was made, were the hogs involved in that shipment weighed out by Midwest Order Buyers?

MR. MILLER: I object to the question, Mr. Examiner, unless the witness will state the circumstances under which he may have personal knowledge of that transaction.

PRESIDING OFFICER BAIN: Can he do that?

MR. MELNICOFF: Mr. Examiner, insofar as personal knowledge is concerned, the answer is candidly no.

MR. MILLER: Let the witness testify.

MR. MELNICOFF: I am answering the objection. The answer is candidly no, he wasn't there when this particular transaction occurred. However, in view of his general knowledge of how these transactions as well as the others were performed, I offer his testimony on that basis.

598 PRESIDING OFFICER BAIN: Would you go back to the question again and read it to me, please?

(Question read.)

PRESIDING OFFICER BAIN: How could he testify on that?

MR. MELNICOFF: Well, Mr. Examiner, I will submit this in the form of a statement realizing, of course, that this witness has appeared to testify from personal knowledge that--

PRESIDING OFFICER BAIN: Go ahead and let him testify.

BY MR. MELNICOFF:

Q. Do you know the circumstances under which this invoice was prepared? A. Yes.

Q. Will you explain the procedure followed? A. The procedure is the same as I have explained before. The information comes from the various points where the livestock involved in that shipment. It goes to Chapin, Chapin makes therefrom an invoice.

Q. At the time that this invoice was prepared in Chapin, where the scale tickets representing the actual weighing of the hogs to be invoiced thereon, were those scale tickets in Chapin physically? A. No.

599 Q. Did they ever come to Chapin? A. That I cannot answer.

Q. In the procedure that you have established and required to be followed, would they have come to Chapin? A. They are coming to Chapin, yes.

Q. But they, however, were not there at the time this invoice No. 7 was prepared, is that right? A. That is right.

Q. Chronologically, if they arrived they arrived sometime after this invoice was prepared? A. Yes.

Q. When was the invoice prepared? A. The invoice was prepared at the time of making that invoice.

Q. Yes, I mean compared to the shipment date, when was the invoice prepared? A. September 7.

Q. Well, is it fair to say, then, that the invoice is prepared either contemporaneous with or shortly after the physical movement of the hogs to the packer indicated? A. Well, it's got to get to the packer as soon after he receives the shipment as possible.

Q. Do you know whether or not this particular packer had any particular requirement with regard to scale tickets? A. He just required that scale ticket to cover the invoice.

Q. Was this a usual requirement by packers? A. No.

600 Q. Do you know of any other packer dealing in the Midwest who has a similar requirement? A. I think there are one or two.

Q. Are they the majority or minority? A. Minority.

Q. They are in the minority? A. As to number, yes.

Q. So you have described the photostatic reproductions on Complainant's Exhibit No. 8 as being summary tickets, is that right? A. Summary scale tickets.

Q. Now, in the light of what you have testified thus far, would you explain and expand what you mean by summary scale tickets? A. A summation of the scale tickets represent in this invoice as to the origin of the shipments is made in the Chapin office. It becomes a basis for making the invoice. Now, because, as I understood this, the packer wanted this scale ticket immediately these tickets were made to go along with the invoice.

Q. These tickets, you mean those reflected on Complainant's Exhibit No. 8? A. That is right.

601 Q. And by summary, you mean, then, that there was in existence prior to the scale tickets reflected on Exhibit No. 8, an actual scale ticket for each poundage of hogs represented on Complainant's Exhibit No. 7? A. Yes.

Q. The reason and purpose for preparing the scale tickets reflected on Complainant's Exhibit No. 8 you have stated, have you not? A. Yes.

Q. And will you state it again, please, in this context? A. Because the packer wanted the scale ticket itself with his shipment or the invoice.

Q. Is it fair to say, then, that these scale tickets here were nothing more or less than memoranda of the transaction? A. It was a summary of the scale tickets making up the transaction.

Q. It was a summary of the actual scale tickets? A. That is right.

Q. And those scale tickets did you say in point of time arrived sometime subsequent to the shipment of the hogs reflected on Complainant's Exhibit No. 7? A. They are supposed to be sent to Chapin and would arrive as you say--

602 Q. Too late for the purposes of this packer. A. It would take a week to get those original scale tickets.

Q. Why do you say it would take a week to get those scale tickets? A. I know from experience.

Q. Where do they come from? A. Every market point from which the shipment is created.

Q. Referring to Complainant's Exhibit No. 2, as we were this morning, that exhibit shows, does it not, that many shipments are made up from as many as eleven country points, is that right? A. Yes.

Q. Then would it be necessary for each of these country points to send in a scale ticket for that part of the shipment which came from that country point? A. Yes, they would have to send in a report.

Q. So that is what you mean by saying it would take up to two weeks? A. Take a week.

Q. Whatever the time you said, that is what you mean, it would take all the time to come from these country points? A. They would have to be assembled and then sent to the packer.

603 Q. So your answer to my question was yes, is that right? A. That is right.

Q. Now, the same thing is true, I take it, with respect to the other exhibits which cover the other allegations in Paragraph 6 on Pages

5 and 6 of the Order of Inquiry, is that right? A. Yes.

Q. Mr. Gilby, let me refer you to Complainant's Exhibit No. 1, if I may, to the date of August 29, 1956. Do you see that? A. Yes.

Q. There is reflected there, is there not, a shipment to Hunter for points and Peoria, is that right? A. It says Peoria.

Q. And the number of hogs, 747. A. Seven hundred forty-seven, yes.

Q. Now, is that the same transaction that appears on Page 6 of the Order of Inquiry? A. Yes, 747, yes.

Q. From how many points does Complainant's Exhibit No. 1 show that hogs originated on that transaction of August 29, 1956? A. Four points.

604 Q. And from any other sources? A. And from Peoria.

Q. That is a posted market, is that correct? A. That is right.

* * * *

606 Q. Mr. Gilby, do you know whether or not Midwest Order Buyers regularly feeds the hogs that they buy? A. Yes, I do.

Q. Do you have with you the records of the amount spent on that feeding? A. Yes, I do.

Q. Would you produce them, please?

MR. MELNICOFF: Mr. Examiner, may this be marked for identification?

PRESIDING OFFICER BAIN: It may be marked Respondents' Exhibit 13.

(Thereupon the document above referred to was marked for identification as Respondents' Exhibit No. 13.)

BY MR. MELNICOFF:

Q. I now hand you Respondents' Exhibit No. 13 for identification, Mr. Gilby, and ask you if you can tell us what that is, please.

* * * *

607 A. This is the total cost of feed, Midwest Order Buyers, the year '54, '55, '56, and '57, the total amounts for each year.

BY MR. MELNICOFF:

Q. Who compiled that exhibit? A. It was compiled by one of my men.

Q. One of your associates, is that right? A. No, not one of my associates, one of my employees who was down there regularly making the audit.

Q. By that employee of your organization? A. Yes.

Q. And you know from where that was taken? A. From the records shown in the expenditures.

Q. From whose books and records? A. Midwest Order Buyers.

MR. MELNICOFF: Mr. Examiner, I now offer in evidence Respondents' Exhibit No. 13.

* * * *

[CROSS EXAMINATION]

BY MR. MILLER:

Q. You say this was taken from the records of Midwest Order Buyers, Mr. Gilby? A. Yes, sir.

608 Q. What records? A. The records showing the attached expenditures and for the general ledger.

Q. Did you personally take the information from those records? A. I did not but the employee of my organization did.

Q. How many hogs were purchased and sold by Midwest Order Buyers in 1956, Mr. Gilby? A. In 1956?

Q. Yes. A. I would have to look for it. In 1956, 479,135.

Q. Was any of this what you are talking about, Mr. Gilby, used at the Midwest Order Buyers feed lot? A. Feed lot?

Q. Doesn't Midwest Order Buyers conduct a feed lot? A. They do but it is not at that point.

Q. Where is the feed lot located? A. There is one or two of them.

Q. Where are they located? A. One at Jacksonville and the other one is--I would have to refer to--where is the second one. We have a feed lot which takes into account, that is a little town of Fisby.

Q. Hogs are purchased at some hog purchasing company and taken to these feed lots for feeding? A. Yes, that might be.

609 * * * *

PRESIDING OFFICER BAIN: Are there any objections?

MR. MILLER: No, sir.

PRESIDING OFFICER BAIN: Exhibit 13 is admitted.

* * * *

[DIRECT EXAMINATION (Resumed)]

BY MR. MELNICOFF:

Q. Mr. Gilby, you were asked a question with regard to feed hogs. Do you know where the feed that was purchased as represented on your Exhibit 13, where that feed was used in the Midwest Order Buyers' organization? A. Anywhere where it was a matter of use in any one of the country points.

Q. That is, feed is used at all of the country points, is that right? A. Yes.

Q. And this is the combined total of expenses for the feed? A. That's right.

610 Q. At all the country points? A. That's right.

MR. MELNICOFF: Mr. Examiner, may these exhibits be marked in their sequence?

PRESIDING OFFICER BAIN: Exhibits 14, 15 and 16 for identification.

(Thereupon the documents above referred to were marked for identification as Respondents' Exhibits Nos. 14, 15 and 16.)

BY MR. MELNICOFF:

Q. Mr. Gilby, I herewith hand you what has been marked for identification as Respondents' Exhibit No. 14. Will you tell us, please, if you can, what that is? A. Yes.

Q. Will you please tell us what it is? A. That is a statement by month of the purchases, that is the total purchases of the Midwest Order

Buyers and a statement by months of the sales showing the head and amount, that is, amount of pounds.

Q. And what do the totals, by that I mean, there are three figures at the very bottom, would you explain those, please? A. The figures at the bottom show the total of the head purchased, the amount of weight purchased, the head sold and the weight sold. The next line?

Q. Yes, immediately below that there are three figures. A. The

611 head purchased is divided into the weight purchased and the result being 230.65 pounds per hog. On the other side, it is the sale divided into the weight, two hundred thirty-two eighty-five per hog, the difference is two eighteen per hog.

Q. What does that two eighteen per hog represent? A. The weight--it represents that the weight sold per hog is greater per hog than the weight bought.

Q. You mean that is the average gain, is that right? A. Yes.

Q. For the period indicated? A. Yes, sir.

Q. Now, I herewith hand you Respondents' Exhibit No. 15. Do you know what that is? A. The same material for the year 1956.

Q. And I herewith hand you Respondents' Exhibit No. 16 and ask you if you know what that is. A. That is the same material for the year '57.

Q. By whom were these three exhibits prepared? A. They were prepared from the records being a copy of the general ledger accounts.

Q. And by whom were they prepared? A. Well, I think they were just prepared from the records by whoever the employee was delegated to do it, but they were checked by my men after they had been prepared.

612 Q. Would that information be a part of the record that you regularly consult in performing your professional duties for Midwest Order Buyers? A. Yes.

Q. And they have been subject to your test and scrutiny? A. That's correct.

Q. And all three of these exhibits individually and together are true and correct? A. Yes, sir.

MR. MELNICOFF: I now offer them in evidence. I have submitted them to counsel for the complainant.

* * * *

616 PRESIDING OFFICER BAIN: Nos. 14, 15 and 16 are admitted.

* * * *

617 BY MR. MELNICOFF:

Q. Now, Mr. Gilby, let me direct your attention to paragraph 11 of the complaint. You have with you certain information concerning that paragraph? A. Yes.

* * * *

619 Q. Will you tell us what do you know about the events and cir-
cumstance under which these scale tickets, those that are listed in the
620 Order of Inquiry, paragraph 11, subparagraph A which are re-
flected on exhibits beginning with No. 43? A. Are you only talking
about A and B?

* * * *

Q. Will you answer the question? A. Yes. My knowledge, special interest and investigation to get the truth out of it.

621 Q. What is the truth on this exhibit? A. The truth is that my order of the stockyard's employee responsible--they were instructed to change the number of hogs on that second item to the figure that is now shown, 138. We have a record against the transaction in the book that records it of who called up and gave those instructions. I didn't carry a copy of the initials, and the same is true, if you want to--

Q. Continue. A. (Continuing) --of the other four of the other three items.

MR. MILLER: May I ask that those three items be identified, please?

MR. MELNICOFF: The three items which appear in the Order of Inquiry under paragraph 11, subparagraph A.

BY MR. MELNICOFF:

Q. Will you continue, please? A. That is the story.

Q. Well, Mr. Gilby, all that is involved here is that the number of heads that were weighed as reflected, for example, by scale ticket No. 515886H was erroneously counted, is that all that is involved? A. That is the story.

Q. This is not the case, is it, of any hogs being taken off or added on? A. No, it is a case of the scale ticket showing the weight

622 of the hogs that are now represented after the change.

Q. So that, in fact, how many hogs were on the scale at the time that this scale ticket was weighed according as disclosed-- A. (Interrupting) You are talking about the first scale ticket?

Q. The first one, yes. A. Yes, 138.

Q. And it was 138 hogs which gave the weight as reflected to the left here, is that right? A. Yes.

Q. And by some error that was someone said that was written down there as being 144 head, is that right? A. No, it was 144 head and they were reduced to 138.

Q. That was a mistake in count? A. The count was in there as to six hogs.

Q. Would the same thing be true with regard to the ticket No. 853819? A. That's correct.

Q. And the same thing with regard to scale ticket No. 856389? A. That's correct.

Q. And what about scale ticket No. 450838? A. That's correct. Now, may I see those tickets, the first one was the--that is the 138.

* * * *

623 A. The note is made right on the scale ticket here. It is the yard count represented in the 138 and the next scale ticket, the 154 is the change from 155. It can be seen there. No change in the printed weight. The next scale ticket, the item is just crossed right out and the proper number is shown on the scale ticket. In this instance there is one more and in the last similar occurence which took place it was called by telephone to add one hog by the stockyard's employee and written on the face of the ticket.

Q. Is that the customary practice? A. It has been as to these, they have tried many ways to get the stockyard's employees to report it or not only that but to change their copy of the ticket. We can't govern the stockyards in their copies so we claim we are right by instructions of their employees when the employee neglectsto change the stockyard copy of the scale ticket.

Q. Let's refer to paragraph 11-B of the --

MR. MILLER (interrupting): Is that exhibit offered into evidence.

MR. MELNICOFF: Not, it was not.

BY MR. MELNICOFF:

Q. Do you have with you there a scale ticket No. 330605?

624 A. No, 330605.

Q. Now, can you explain the circumstances under which the events therein reflected took place?

PRESIDING OFFICER BAIN: Pardon me, is that exhibit in evidence as one of government's exhibits?

MR. MELNICOFF: I have been trying to find them here, just a moment. Yes, it is, Mr. Examiner, it is No. 51.

PRESIDING OFFICER BAIN: Thank you.

* * * *

A. When these head of stock were sent down for loading it was found that there were three such that could not be passed by the B. A. I. Bureau of Animal Industry. I don't know whether he put a white strip or a yellow strip to identify those three hogs. They had to be removed from the shipment. If you want me to--

Q. (Interrupting) Please elaborate on it. A. All right. Insofar as this one is concerned, there are several others. Now, the disposal of these that are taken out of the lot, usually they are sold to another order buyer or dealer or commission man on the St. Louis market and, of course, he disposes of them as he can, bargained for and weighed to him at a price the same as any other transaction.

Q. But they were removed at the direction of the Bureau of Animal

625 Industry, is that correct? A. That's correct.

Q. Because they were unfit for human consumption for some reason or another? A. They would have to state the reason. May I call to your attention that there are three other such, making four altogether of these items shown on this page.

Q. What are those other three items? A. You have got the first one that you talked about?

Q. Yes. A. Then when we come down to January 19, 1955, scale ticket 761302 represents another transaction of the start on July 13, 1955, scale ticket 880822, fifteen weighed off. I do know that that had a yellow stripe around it. And on October 14, '55, there were five weighed off and that had a yellow stripe around it. All of these were resold to Knapp & Company or Knapp, whatever the name of the concern is.

Q. What is the nature of the business? A. It is called order buyer or dealer. I know that he disposes of them, probably in the State of Illinois where they can be questioned going over the border. They are good enough to eat and good enough to use but in interstate, why, that is a different question.

Q. Now, let me refer you to the item shown on page 10 of the Order of Inquiry, June 8, 1954, scale ticket No. 405772. Will you ex-
626 plain that transaction for us, please?

* * * *

Q. Will you continue, Mr. Gilby? We are on the item of June 8, 1954. That is Complainant's Exhibit No. 53. A. Yes.

Q. What are the circumstances of that transaction? A. I have here scale tickets and the invoice relative to these--relative to the--as a matter of fact, here is the thing that takes place.

PRESIDING OFFICER BAIN: What is the charge with relation to this particular exhibit? Isn't the charge simply that something was put onto the scale ticket which was not there, isn't that the charge?

627 MR. MILLER: Well, that is in essence the charge, Mr. Examiner, that entries which were in addition to entries appearing on the original scale ticket were placed there by respondents and that such entries were false and misleading for various reasons.

PRESIDING OFFICER BAIN: Well, go ahead. I don't get the materiality of what might have happened. If the facts are that something was added on there. A. (Continuing) The ticket is here showing the first entry on it as weight, 127,945, 121 hogs. It comes to H. L. Sparks & Company. H. L. Sparks & Company wishes to divide these 121 hogs into price strata and so a memorandum is put on here by H. L. Sparks & Company of his scale ticket showing that 25 of them are charged out at twenty-five and a half cents and the remainder making 121 are charged out at twenty-six cents. It is just a memorandum splitting the 127,945 pounds of the 121 hogs into two categories for the purposes of showing how much was relative to this price and how much was relative to the second price. Same weight to the same party, same hogs to the same party, the invoice showing so many at such a price and so many at another price.

BY MR. MELNICOFF:

Q. Mr. Gilby, isn't it true that there were, in fact, no hogs taken off of this scale ticket? A. That's correct.

628 Q. The total poundage remained the same? A. That's right.

Q. It was just a division made on the scale ticket to reflect the difference in price? A. That's correct.

Q. Now, does that apply to any other transactions alleged in paragraph 11? A. I will have to examine it.

Q. Suppose we continue, then, with the item of September 1, 1954. That is scale ticket 569248. A. That should be 9/7/54, shouldn't it?

MR. MELNICOFF: Mr. Examiner, was that one that was amended to be 9/7/54 '57, is that correct?

MR. MILLER: I believe so, yes, sir.

MR. MELNICOFF: I believe you are right.

BY MR. MELNICOFF:

Q. Yes, you are correct, Mr. Gilby, that date is September 7, 1954. This is Complainant's Exhibit No. 55. A. Here is a scale ticket representing 93 hogs, printed weight 216,030--160,030, it is hard to read the printed characters--in which there are 30 deduced and 63 remaining making the 93 at 20 cents. That again, so far as the weigh-off is concerned the 110 are at 20 cents. These, in order to get the weight of that that was weighed off was sent upstairs to be scaled.

629 As I understand it, it was done by the scaling. We did get a weight which is shown on this scale ticket.

* * * *

633 Q. Will you go, Mr. Gilby, to the date of July 9, 1954, scale ticket No. 512432? A. You want me to go ahead?

Q. Yes, would you, please? A. I have a scale ticket and I have an invoice scale ticket being 512432 showing the number of hogs as 20. There is added, but no change made in the scale weight but there is added to the 20 one hog--by the way, it is a Sloe 250 pounds and this

634 represents a hog that was carried over on what we call the daily sheet and was added there. This addition was added to the 150 pounds on the scale ticket.

PRESIDING OFFICER BAIN: On the actual scale ticket?

THE WITNESS: This is our copy of the actual scale ticket.

PRESIDING OFFICER BAIN: Your copy of the scale ticket looks different on Exhibit 61 from the original scale ticket, that is the reason I questioned it. That is your copy of the scale ticket?

THE WITNESS: Yes, and that is what was charged out to the packer.

BY MR. MELNICOFF:

Q. Turn your attention to November 2, 1954, scale ticket 558165. That appears to be Exhibit No. 63-A of the complainant. Will you please explain that transaction? A. This is the scale ticket No. 588615?

Q. Yes. A. All right, 688515--

Q. (Interrupting) No. 588615. A. That's correct, 588615. We have here two items that were weighed on the scale, 1,530 and the other 6,530 and one 390. It is claimed that there is one for 500. It happens to be a boar, Sloe.

PRESIDING OFFICER BAIN: Does that show on there?

THE WITNESS: On my copy of the scale ticket for which there is no scale ticket but I have found the scale ticket.

MR. MELNICOFF: May this be marked for identification, Mr.

Examiner, as Respondents' Exhibit No. 18? I believe we have 17 which was not admitted.

PRESIDING OFFICER BAIN: It may be marked for identification as Respondents' Exhibit No. 18.

(Thereupon the document above referred to was marked for identification as Respondents' Exhibit No. 18.)

THE WITNESS: This is the scale ticket I found to cover the 500.

PRESIDING OFFICER BAIN: I would like to see more about that other one.

MR. MELNICOFF: Which other one?

PRESIDING OFFICER BAIN: The one that is right under the one I just marked because it is different from the copy of the one which is in evidence on Exhibit 63.

BY MR. MELNICOFF:

Q. What is Respondents' Exhibit No. 18, Mr. Gilby? A. The invoice represents--

Q. (Interrupting) No, the scale ticket, I am talking about. A. The scale ticket, all right. The first scale ticket is the second here which

636 shows--

Q. (Interrupting) What is the first scale ticket, what is its number, please? A. No. 588615.

Q. And you are talking about that, please? A. Yes.

Q. That is not Respondents' Exhibit No. 18? A. It is a part of it.

Q. All right, go ahead. A. This Exhibit 18 should be put on this ticket, this is part of it. It shows six hogs printed weight 535. It shows one hog, printed weight 390. It shows one hog, 500, that isn't printed on this ticket but it is printed on the ticket which was found here of which this is just a copy.

MR. MILLER: Is he identifying Exhibit 18?

MR. MELNICOFF: Yes. He is giving the wholesale transaction which is your Exhibit 63. He is explaining the whole transaction for Respondents' Exhibit 18 which is ticket No. 553246.

MR. MILLER: This merely points up the conclusion that results. This Respondents' Exhibit 18 is scale ticket No. 553246. Mr. Gilby has been testifying with respect to scale ticket No.--

THE WITNESS (interrupting): This was the ticket they said was missed covering this one, 500, you are referring to that?

637 MR. MELNICOFF: Let me see if I can clear this up.

BY MR. MELNICOFF:

Q. Respondents' Exhibit No. 18 for identification which is scale ticket--strike that, please.

Scale ticket No. 588615H which is already in evidence as Complainant's Exhibit 63, what does your copy of that show, the one that you have with you, Mr. Gilby? A. That shows, and I repeated it before twice, six hogs were printed, weight 530, one hog with a printed weight of 390 and one hog with pencil weight of 500, they claimed there was no such scale ticket.

PRESIDING OFFICER BAIN: That is not all that shows.

THE WITNESS: I beg your pardon. Then I will say that the six are priced on here as memorandum at 13.

PRESIDING OFFICER BAIN: That is on Exhibit 63-B, scale ticket 588615?

THE WITNESS: I would have to see.

PRESIDING OFFICER BAIN: Scale ticket 688155.

THE WITNESS: No. 588615 shows the six at 530 as does the B but they don't show in printing because they just copied it and also it shows one hog.

PRESIDING OFFICER BAIN: I have it right before me here and we don't need to go into what it shows now.

THE WITNESS: In order to explain it--

638 PRESIDING OFFICER BAIN (interrupting): I notice that there is something on Respondents' copy of scale ticket 588615 which is not on Complainant's Exhibit 63-B.

THE WITNESS: That's correct.

PRESIDING OFFICER BAIN: Has something been put on there since?

THE WITNESS: No, nothing has been put on there. The scale ticket--

PRESIDING OFFICER BAIN (interrupting): Just a minute. The words written in pencil which do not show to be a carbon copy which are now on the respondents' copy of scale ticket 588615, those words are not on Exhibit 63-B.

THE WITNESS: This "boar Sloe" is my own writing, sir, on H. L. Sparks & Company's retained copy.

PRESIDING OFFICER BAIN: In your testimony it indicated to me that this 63-B was a Sloe hog.

THE WITNESS: That's right.

PRESIDING OFFICER BAIN: I couldn't see it on there, that is the reason I was surprised at your answer.

THE WITNESS: However, that isn't the point. There is also included on the bottom copy here an additional one hog at 500.

PRESIDING OFFICER BAIN: That shows on Exhibit 63.

THE WITNESS: It is written, you see, on the scale ticket of H. L. Sparks & Company. You don't find it on the stockyard's ticket.

639 PRESIDING OFFICER BAIN: That is it, and that is what the complaint is about.

THE WITNESS: You can't charge that out because you haven't got a scale ticket for it. I am prepared to give you a scale ticket, 500 pounds.

BY MR. MELNICOFF:

Q. That is Respondents' Exhibit No. 18, scale ticket 553246, is that right? A. Yes.

Q. Mr. Gilby, there is in writing here, as the Examiner has pointed out to you boar Sloe on 588615? A. Yes.

Q. Is that in your handwriting? A. Those two words are.

Q. What was the purpose of putting them on there? A. I had to identify as to price, as to weight, too. I mean I was looking for a scale ticket.

Q. That is your notation? A. That's correct.

Q. In order to prepare your testifying in this proceeding, is that right? A. Well, I was looking at it before and I was called on to testify.

Q. It is merely memorandum, it is not intended in any way to
640 change the scale ticket? A. That's right.

MR. MELNICOFF: I offer in evidence Respondents' Exhibit 18.

* * * *

BY MR. MILLER:

Q. Now, Mr. Gilby, Respondents' Exhibit 18 is a copy of a scale ticket showing one hog, weight at 500 pounds? A. Yes.

Q. And it is your testimony that that one hog weighing 500 pounds is the same hog that appears by written notation on Complainant's 63-B, is that correct? A. That's correct.

Q. And how do you know that? A. I have dug for scale tickets and that was the scale ticket I found that covered the item.

Q. You mean your only basis for the conclusion-- A. I wasn't the only one hunting for that scale ticket.

Q. Let me ask the question, please, Mr. Gilby. Your only bases
641 for the conclusion that it is the same hog is that you found a scale ticket of one hog weighing 500 pounds? A. No.

Q. What? A. The scale ticket was found in the files of H. J. Sparks & Company and it was brought to me representing the missing scale ticket for that one hog at 500 pounds. I don't recall whether it is a different scale number than the other one. This, you see, shows scale No. 18 and this--it is pretty hard to--that looks like 18, pardon me, this is 16. So when I found that it was a different scale I found also that they claimed that that was weighed separately and was covered by this ticket.

Q. Now, the only knowledge you have that it is the same hog is that it was so represented, isn't that right? A. That hog is not covered anywhere else on the charges.

Q. What is the date of the scale ticket of that one hog at 500 pounds? A. It is hard to read the date on the 500 pounds.

Q. Isn't the date 10/28? A. I wouldn't identify it as 10/28.

Q. You wouldn't identify the date appearing on this scale ticket as 28? A. I said 10/28.

Q. What is this figure that is in blue carbon that I am pointing to

642 right now, isn't that a 28? A. I can't identify it as such.

Q. There is an eight in there, isn't there? A. I can't identify the eight, if you can call that 28, O.K.

Q. I think it is quite apparent that that is a 28. But the document is in the record and it speaks for itself and the Examiner may examine it.

MR. MELNICOFF: Mr. Examiner, since there seems to be some doubt hinging upon that suppose I withdraw that for the moment and ascertain more clearly what the date of that is and I withdraw it at this moment and will reoffer it together with substantiating evidence as to the date.

PRESIDING OFFICER BAIN: If that is Scale No. 18, that figure is a 28. The number up on the top is not 89.

THE WITNESS: It could be that date--what is the date on the invoice?

MR. MELNICOFF: November 2nd.

THE WITNESS: What is the second date?

MR. MELNICOFF: Now, can you help me there, Mr. Examiner? I see a two there, I don't see any other month date indicated on this copy here. Do you see?

PRESIDING OFFICER BAIN: On which copy on which ticket?

MR. MELNICOFF: The one that is attached on the one that I have in my hand now.

643 PRESIDING OFFICER BAIN: You mean a copy of the invoice?

MR. MELNICOFF: Scale ticket.

PRESIDING OFFICER BAIN: No. 588615?

MR. MELNICOFF: Yes.

PRESIDING OFFICER BAIN: That is 10/2, scale 16.

MR. MILLER: I can clear that up by refreshing your recollection with respect to Mr. McCoy's testimony. You will recall that Mr. McCoy in testifying explained the 10/2 date on that scale ticket, he stated that the records of the stockyard company showed that a series, the serial numbers of a particular number scale ticket were inadvertantly marked by the weighmaster as 10/2 whereas it should have been 11/2. Scale ticket 588615 was actually issued on 11/2.

MR. MELNICOFF: That number wasn't clear and I remember Mr. McCoy testifying something about that. As Mr. Miller has recalled since it was his witness, would you prefer that I withdraw the exhibit at this time in order that the date may be cleared up?

PRESIDING OFFICER BAIN: If you wish, yes, sir.

MR. MELNICOFF: Perhaps that would be better and I will offer it after I can clear that up.

PRESIDING OFFICER BAIN: All right, sir.

MR. MELNICOFF: I will withdraw the 18 at the moment.

* * * *

644 CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Gilby, starting with the first part of your testimony yesterday, I understand your firm does the general accounting and bookkeeping work for the various Sparks partnerships, is that correct?

645 A. No, we don't do the bookkeeping work.

Q. You do the accounting and auditing? A. Auditing.

Q. And what does that include, making out the income tax returns for the partnerships? A. That is not part of the auditing. But that is a service we render, too.

Q. And you make out the annual reports? A. All of them, yes.

Q. They are submitted on a carbon copy? A. Yes.

Q. And in making out these various returns and reports and doing your general auditing work, you work from records furnished you by the H. L. Sparks partnerships? A. Yes.

Q. As a matter of fact, neither you nor your firm has anything to do with the day-to-day operations of the H. L. Sparks Company? A. No.

Q. You don't make out bills and invoices? A. No.

Q. And you don't have anything to do with the buying or selling of hogs? A. No.

Q. And you don't have anything to do with the weighing of hogs?

646 A. No.

* * * *

648 Q. Now, H. L. Sparks & Company of Springfield, Illinois, at all times mentioned in the complaint, that was a partnership composed of Harry H. Sparks and Rex Wanda Sparks? A. That's correct.

Q. And H. L. Sparks & Company of Peoria, Illinois at all times mentioned in the complaint was a partnership composed of Harry H. Sparks and Rex Wanda Sparks, is that not correct? A. Of Peoria, yes.

Q. And the partnership H. L. Sparks & Company of Bushnell at all times mentioned in the complaint was a partnership composed of Harry H. Sparks and Rex Wanda Sparks, is that not correct? A. When you mentioned in the complaint, yes, but prior to that it was not.

* * * *

650 Q. Well, my question was, Mr. Gilby, at all times mentioned in the complaint, and by that I mean the years 1956 and '57, during those years Harry H. Sparks and Rex Wanda Sparks were partners in Midwest Order Buyers? A. A continuing partnership, yes.

Q. They were the only partners in Midwest Order Buyers in those years? A. That's right.

Q. And the principal office of Midwest Order Buyers is at Chapin, Illinois? A. Yes.

Q. Who is the general manager? A. I don't know of anybody designated in the employment list as general manager. I presume Mr. George Ischer was the general manager.

Q. Mr. Ischer, irrespective of what his particular title might be, is in general over-all charge of the operations, is that not correct? A. He has his certain duties. I think as he terms himself general manager he probably is.

651 Q. Now, with respect to Mr. Harry A. Sparks as an individual, where is his principal office, Mr. Gilby? A. His principal office is in

the National Stockyards at St. Louis. His office so far as his connection with the Midwest and any other of these entities is also in St. Louis in the National Stockyards.

Q. And is that where Mr. Sparks receives orders for hogs from packers? A. A lot of the orders, yes.

MR. MELNICOFF: I object to this, this is going beyond the scope of the witness' redirect examination. He testified nothing with regard to this.

PRESIDING OFFICER BAIN: Nothing with regard to what?

MR. MELNICOFF: Taking of orders and giving of orders and the place of the office and so forth.

PRESIDING OFFICER BAIN: I believe he did. He testified what happened to the hog when they were bought and when they got orders and all that.

MR. MELNICOFF: With respect to Chapin, Illinois, Mr. Examiner, not with respect to East St. Louis.

PRESIDING OFFICER BAIN: It was not with respect to Chapin, Illinois, it was with respect to country points and posted stockyards. I think it is in relation to the direct. It is admissible.

652 BY MR. MILLER:

Q. Practically all of the orders are received by him at the National Stockyards, is that not correct? A. I couldn't answer that yes or no.

Q. Well, let's take an example. One of the customers of Harry Sparks during the period here in question was Swift & Company also located out in the National Stockyards. Swift & Company would put in their order with Harry Sparks and the National Stockyards, would they not? A. He would put in his order as wanting to buy country hogs or hogs wherever they were located.

Q. He would put that order in to Harry Sparks, National Stockyards? A. At National Stockyards.

Q. And the same thing, as a matter of fact, would be true of Heil Packing Company? A. Yes.

Q. Hunter Packing Company? A. But in the same way I am talking about.

Q. And St. Louis Independent Packing Company? A. In the same way.

Q. Yes, sir. And-- A. (Interrupting) They would designate what hogs they wanted, country hogs--

653 Q. (Interrupting) Do you mean that when they gave Harry Sparks an order they would designate whether or not they should be country hogs or stockyard hogs? A. In general they were designated, yes.

Q. Is that right? A. Yes, that's right.

Q. Let's take as an example, Mr. Gilby, this transaction about which you testified at great length, the first transaction, paragraph 4 of the Order of Inquiry as set forth in Respondents' Exhibit No. 12 on page 5. Do you have that exhibit? Do you have that transaction before you, Mr. Gilby? A. No, unless you tell me the date I don't know.

Q. Pardon me, December 1, 1955, as I mentioned, appearing on page 5 of this tabulation.

MR. MELNICOFF: How is that headed, Mr. Miller, that page?

PRESIDING OFFICER BAIN: The date is in the upper left-hand corner, Swift & Company and entity.

MR. MELNICOFF: The 488 lot?

PRESIDING OFFICER BAIN: That is the page I have.

THE WITNESS: That is the page I have, too.

MR. MELNICOFF: Thank you.

BY MR. MILLER:

Q. My page is numbered 5 of this Respondents' Exhibit No. 12
and this particular page of the exhibit purports to cover a shipment or
654 sale of 488 hogs to Swift & Company. Now, using this transaction
as an example, Mr. Gilby, I would like to direct a few questions toward
the actual manner in which this purchase and sale transaction would be
handled. A. Could I further identify as showing a total of 488 hogs in
the left-hand corner?

Q. Yes, sir. Now, I assume from your testimony before that Swift had placed this order with Harry Sparks at the National Stockyards, is that correct? A. He may place it there or he may place it at some other place. He may place it there.

Q. By he you mean who? A. Swift & Company.

Q. You mean Swift at National Stockyards might place an order one day at Chapin and another day at Springfield and another day-- A. (Interrupting) I said he may.

Q. You don't know? A. No, I would say I don't know how often.

Q. Now, in filling this order for hogs from various country points and from Springfield the Springfield Stockyards were used, is that right? A. It so shows.

Q. Incidentally, as long as we have this exhibit before us, Mr. Gilby, I believe you testified this morning that on all sales of hogs by
655 Midwest Order Buyers these invoice weights are actually reweigh rates, is that correct? A. Yes, sir.

Q. Now, I direct your attention-- A. (Interrupting) In the case of weights where you find the same shipment as they are the purchase, naturally, they would use the original scale tickets that the dealers are permitted to use.

Q. But in all cases the invoice rates are not reweigh weights? A. It is the same as reweighing.

Q. What? A. It becomes unnecessary to reweigh if that is the tickets agreed to use. You don't in the stockyards because the stockyards didn't get any money in revenue because they would use the original ticket. I am talking now about a dealer. They eventually introduced into the various stockyards--all of them don't have it yet--a resale tariff which meant that the dealer, of course, could use the original tickets.

Q. Well, now directing your attention to the first column of this exhibit headed "Reweigh Weight", I mean the first column of this exhibit which has this heading, there are two columns of the exhibit which are headed the same? A. The headings that I see here are "Head" and "Weight". Are those the two columns?

656 Q. No, over at the middle of the column headed "Reweigh Weight". A. Yes.

Q. Are the weight figures in that column actually reweigh weights? A. These are the weights of the scale tickets that is rendered to Chapin as their reweigh weight.

Q. Who reweighed the hogs? A. They were reweighed at--I don't know if it is Springfield or at the other two stockyards.

Q. Well, all of these hogs here came from Springfield, Mr. Gilby, do I understand from your testimony that the weights shown under the heading "Reweigh Weight" are weights obtained by a reweighing of those hogs at Springfield? A. Again I repeat that purchase weight ticket they are allowed to use I think you will find in the case of Springfield, unless he splits his hogs.

Q. Now, it is your testimony now that the weights shown in the column "Reweigh Weights" are the purchase weights of those hogs? A. I am not testifying that. I am testifying it to be the same weight as was charged to Midwest.

Q. Let's take these 48 hogs. That is the first item that appears with respect to hogs in Springfield? A. Yes.

657 Q. There is a column headed with a heading "Head", 48 buy weight? A. Yes, 12,470.

Q. Reweigh weights, 12,470? A. That's right.

Q. Exactly what weighing does that represent? A. That is the weighing out of Springfield.

Q. Weighing out of Springfield? A. Yes, sir, it was never changed when the packer was charged. He used the same purchase ticket.

Q. Isn't it a fact that that 12,470 pounds is the weight at which H. L. Sparks & Company of Springfield purchased those hogs? A. Yes.

Q. And then they were not weighed again, is that correct? A. That's right, and they were charged to the packer at that rate.

Q. In other words, they were transferred to Midwest Order Buyers at the same weight at which H. L. Sparks & Company at Springfield purchased them. Mr. Gilby, a reweigh indicates that the hogs were reweighed a second time. Were these 48 hogs weighed a second time? A. This purchase weight so far as Midwest Order Buyers is concerned

658 is the reweigh to Chapin from this posted market and that same ticket which I have explained is used as the base for the shipment to the packer.

Q. The scale ticket that is issued? A. In other words, Midwest Order Buyers does not make any profit if that is on that shipment.

Q. The scale ticket that is issued to H. L. Sparks & Company at Springfield is transferred then to Midwest Order Buyers? A. It is not transferred, it is sent to them as the charge to them.

Q. It is sent to them as the charge to them. I see. The Midwest Order Buyers purchase the hogs from H. L. Sparks & Company? A. Of Springfield.

Q. And Midwest Order Buyers in turn sold those hogs to Swift & Company, National Stockyards? A. That's right, using the same weights and, of course, the same head as it was.

Q. That is a dealer transaction on the part of the Midwest Order Buyers, is it not? A. Correct. As I have explained they are permitted to use the purchase tickets if they so care to.

Q. And if a dealer transaction on the part of Springfield Stockyards, that would be on the part of Midwest Order Buyers? A. Say that
659 again, please.

Q. That is a dealer transaction as a posted stockyards by Midwest Order Buyers, is it not?

MR. MELNICOFF: Wait a minute.

A. Well, H. L. Sparks & Company is not registered as a dealer at the Springfield Stockyards but H. L. Sparks & Company of Springfield is the registered party. They may act as a dealer or order buyer, as you call them, but it is the market agency who buy.

Q. The Midwest Order Buyers purchased these hogs? A. Yes, the same as the packer would, yes.

Q. And in turn sold the hogs to a packer? A. Yes.

* * * *

660 BY MR. MILLER:

Q. As a matter of fact, Mr. Gilby, a good portion of this 167 hogs in this transaction were never in the possession of Midwest Order Buyers, were they? A. That's right.

* * * * *

662 Q. Springfield is owned by Midwest Order Buyers? A. No, I say stock purchased from Springfield when it goes to the packer is owned by Midwest Order Buyers.

Q. I understood from your answer the usual procedure is to go directly from Springfield to the packer? A. Yes, if the load is big enough.

Q. The hogs are never in the custody of any employee of Midwest Order Buyers? A. As owners they have to be because they bill it, regardless of where they are located.

Q. How about the physical custody without reference to ownership?

MR. MELNICOFF: I object to that, Mr. Examiner. We are getting into a further discussion of custody, it has now become physical custody.

PRESIDING OFFICER BAIN: Same ruling, the objection is overruled.

663 BY MR. MILLER:

Q. What was your answer with respect to the physical custody? A. There may be instances where the hogs will go to Chapin.

Q. Isn't it usual when hogs are loaded out of Springfield and Peoria for the hogs to go direct to the packer? A. Not necessarily, if they don't have a load.

Q. Unless a trucker picks up a load? A. That is what I am talking about.

Q. And the trucker will pick up, say, some hogs at Springfield? A. That's correct, owned by Midwest Order Buyers.

Q. And the trucker might then go to another buying point and pick up a few more hogs? A. Owned by Midwest Order Buyers.

Q. How about the answer to my question? A. I have told you there are many instances when they have physical possession when they are transferred from Springfield to join some other lot that is going to this packer or, I think there is one case there, I don't remember the date, where a trucker brought a load and unloaded it at Chapin and went back to get 20 more hogs.

Q. You keep talking about the hogs being owned by Midwest Order Buyers. Do you mean by that that--let's refer again to this shipment
664 covered by Respondents' Exhibit 12 on December 1, 1955, page 5 of such exhibit, where 167 hogs from Springfield went to Swift & Company at National Stockyards. Now, is it your testimony that from the time those hogs left the Springfield Stockyards to the time they arrived at Swift & Company they were owned by Midwest Order Buyers? A. Oh, yes.

Q. Where did titles pass?

MR. MELNICOFF: I object to that. Now, we are asking this witness the question of when the titles passed. That might depend and it does depend upon the statute of the local jurisdiction. He is asking him a purely legal question, when does title pass.

PRESIDING OFFICER BAIN: This witness is an expert on stockyards practice and that is one of the rules that we can almost take official notice of. The objection is no good. It is overruled.

THE WITNESS: Shall I answer.

MR. MILLER: Yes.

MR. MELNICOFF: Yes, of course.

A. The title is passed at the time it was sold to the Midwest Order Buyers.

BY MR. MILLER:

Q. At what time was it sold? A. It was sold at the posted yard.

665 Q. And so the title at the posted yard is passed from H. L. Sparks Company of Springfield, Illinois, to Midwest Order Buyers? A. That's right.

Q. And the hogs were shipped directly out of the Springfield Stockyards by Midwest Order Buyers to Swift & Company? A. I would have to look up further as to these that you are talking about, there may be some, as I say, en route or taken from, say, physical possession for some reason or another. There is no reason why they shouldn't be. Perhaps they are loaded on another truck to continue their journey.

Q. In any event and irrespective of the route traveled it would be still shipped by Midwest Order Buyers to the route packer? A. That's right.

Q. And this testimony, Mr. Gilby, with respect to this particular transaction occurring on December 1, 1955, would be true with respect to the other transactions in Respondents' Exhibits 4 through 12 in which hogs from posted stockyards were delivered by Midwest Order Buyers to a packer? A. I would have to have that question again.

Q. I mean the testimony you have given with respect to this particular transaction would be true with respect to the other transactions about which you have testified today in which hogs come from a posted stockyards and went to a packer? A. Could I have information as to
666 the others I testified to?

Q. I am referring particularly, Mr. Gilby, to the transactions covered by Respondents' Exhibits 4 through 12 being the exhibits respondents' Exhibits 12 relates only to Swift? A. That's right.

Q. Respondents' 4 through 11 relate to other packers? A. Yes.

Q. I am asking you if your testimony with respect to the handling of hogs by Midwest Order Buyers in this transaction would be the same with respect to other transactions covered by Respondents' Exhibits 4 through 12? A. Yes, as to posted markets.

* * * *

677 Q. Mr. Gilby, in transactions such as this December 1, 1955, transaction to whom was the payment remitted? A. To whoever made the shipment.

Q. As a matter of fact, isn't it true that in most cases such as this payment is made to H. L. Sparks & Company, National Stockyards?

678 MR. MELNICOFF: I object to that question because it is phrased generally. If he wishes to inquire as to a particular payment for a particular shipment that is made I suggest that question merely to illustrate

my objection, not to direct counsel how to ask his question, but merely to say generally how such payments are made is again assuming a statement of fact not in this record. I object to it.

PRESIDING OFFICER BAIN: It simply asks a question. I don't believe the objection is good. It is overruled. Can you answer the question?

MR. MELNICOFF: Can we have the question, please?

(Question read.)

A. Payment is made to that address. It is deposited in a bank account of Midwest Order or whatever the shipper's name may be.

BY MR. MILLER:

Q. Is it not true, Mr. Gilby, that on numerous invoices issued by Midwest Order Buyers to various packers, customers of Midwest Order Buyers, that such invoices bear the notation remit payment to H. L. Sparks & Company, National Stockyards, Illinois? A. Using presumably the stamp for the purpose of identifying Midwest Order Buyers at the office of H. J. Sparks & Company where the bank account is kept.

Q. Who is H. J. Sparks? A. All right, H. L. Sparks, my
679 initials are "J".

Q. Is it not true that that stamp says remit payment to H. L. Sparks & Company, National Stockyards, Illinois? A. Yes, it is meant to show the address to which it should be sent.

Q. It also shows the name of the company to whom it was sent? A. That is the address.

Q. What does the H. L. Sparks & Company mean? A. That is the office where the funds are sent and then deposited in the bank account under the name of Midwest or whatever it is in that big bank in the stockyards. I advised Mr. Sparks that he shouldn't keep large sums of money in any of these country places including Bushnell.

* * * *

681 BY MR. MILLER:

Q. Mr. Gilby, yesterday you testified at some length with respect to the country point operations of Midwest Order Buyers and one of the questions asked you by Mr. Melnicoff was what procedure is followed by Midwest Order Buyers when a shipment of hogs moves from a country point to a packer. Do you recall that line of testimony? A. I think I do.

Q. I believe you said the first thing that happened was that it is decided where the hogs go, is that correct? A. Yes.

Q. Who decides that? A. It is decided and the order is issued from Chapin.

Q. Somebody from Chapin decides where the particular hogs from each buying station goes. A. Yes.

682 Q. And who -- A. (Interrupting) I think the decision is made by Mr. Ischer if he is there and by somebody who substitutes for him if he is not.

Q. Now, how does Mr. Ischer or his substitute know which order Midwest Order Buyers has that day? A. Because he has a record of the reports. They are sold after they get them.

Q. How does Mr. Ischer know which packers have orders that day? A. He doesn't look for orders. He gets instructions when they are bought by the packer. They are not order buyers.

Q. I don't mean that if hogs are moved from country buying points to packers, the packers first of all have had to place an order for those hogs? A. Or they call up and ask how many hogs they want or do they want hogs.

Q. You mean the packer has made a request to purchase hogs, has he not? A. No.

Q. You don't? A. We are dealers and we sell these hogs.

Q. You don't ship the hogs to a packer without the packer having placed an order? A. We ask him for the order.

683 Q. Who asks him for the order? A. I wouldn't answer that directly, Mr. Miller. That goes through the channel of operations.

Q. Now, Mr. Gilby, let's start over again. You said that a decision is made as to where the hogs from the country points go? A. As a matter of sale.

Q. Yes, and Mr. Ischer is the one who decides where the hogs go? A. No, he is the one who gives the orders relative to the shipment as to where they go.

Q. He gives orders as to where the hogs are to be shipped? A. That's right.

Q. Now, how does Mr. Ischer know where the hogs are to be shipped? A. The data is assembled and Mr. Sparks looks over the -- what he has to sell and he picks out notifies Mr. Ischer where he should ship and bill the hogs that he has.

Q. In other words, Mr. Ischer gives instructions with respect to shipment of hogs from country buying points pursuant to instructions which Mr. Ischer has received from Mr. Sparks? A. Pursuant to discussion with Mr. Sparks, yes.

Q. Now, before Mr. Ischer can give instructions with respect to
684 where the hogs are to go he has to know how many hogs have been
purchased at all the country buying points that day? A. Yes, and what hogs have been carried over.

Q. And he also has to know the weights at which all those hogs have been purchased? A. Yes.

Q. How does he obtain that information? A. By telephone usually.

Q. Each of the country buying points telephones Mr. Ischer each day and tells him how many hogs they purchased and what the purchase weights were, is that correct? A. Yes.

Q. And a record of that is maintained at Chapin so that Mr. Ischer can -- A. (Interrupting) That's correct.

Q. (Continuing) -- ship the hogs out to the packers.

Now, are scale tickets sent to Chapin, scale tickets from the country buying points? A. What are you talking about, this period?

Q. Yes. A. Scale tickets now?

Q. Yes. A. Yes.

Q. All of my questions, Mr. Gilby, relate to the period covered
685 by the Order of Inquiry unless otherwise specified. A. I don't
know that they were sent to Chapin in the period you speak of.

Q. Well, you examined all the books and records at Chapin? A. I don't examine the scale tickets.

Q. You didn't examine any scale tickets? A. No.

Q. How many buying stations are operated by Midwest Order Buyers, Mr. Gilby? A. I would have to refer to my list.

Q. You don't know without referring to your list? A. That's right.

Q. You don't even know how many are operated? A. Well, I know it from my list.

Q. Without reference to a list you don't know how many buying stations are operated? A. They change in the number of stations they had. They open the station or they close the station.

Q. You know -- during the period in question do you know how many stations they operated, approximately? A. Approximately seventeen or twenty.

Q. Where are they located? A. I would have to look at the list.

Q. Did you operate a buying station, Mr. Gilby, during the period
686 in question at Quincy? A. Yes.

Q. Who is in charge of the Quincy station? A. I do not know by name.

Q. You don't know who is in charge of the station at Quincy? A. No.

Q. Have you ever been there? A. Yes.

Q. You don't know who is in charge? A. That changes too.

Q. Who is in charge of the Quincy station now? A. I don't know, I would have to refer to the list.

Q. Now, with reference to the list you have in front of you, Mr. Gilby, will you tell us how many buying stations -- strike that question, please.

Is that list which you have before you, does it relate to the present time or to the period in question? A. This would be the period in question.

Q. With reference to that list will you tell us how many buying stations were operated by Midwest Order Buyers during the period in question? A. Twenty including -- twenty-one including Chapin.

Q. Now, yesterday you testified with respect to some scale tickets covering some transactions set forth in the Order of Inquiry.

687 I hand you first of all, Mr. Gilby, Complainant's Exhibits 7 and 8 and I believe you identified them yesterday and they have been received into evidence as an invoice to Heil Packing Company from Midwest Order Buyers covering the sale of 744 hogs to Swift & Company -- the Heil Packing Company, and Exhibit 8 was identified and received into evidence as the scale tickets covering those 744 hogs. I also hand you Respondents' Exhibit No. 10 and direct your attention to the second page thereof and ask you if the second page of Respondents' Exhibit No. 10 covers that same transaction. A. That does.

Q. And I take it, Mr. Gilby, from your previous testimony that the second page of Respondents' Exhibit No. 10 purports to show the place where the 744 hogs were purchased, is that correct? A. The buying points.

Q. And it purports to show the purchase weights and sale weights of the hogs involved, is that correct? A. Called here the buy weight and the reweight.

Q. Yes. A. O.K.

Q. Now, Mr. Gilby, I direct your attention to Complainant's Exhibit 8-A which is the first scale ticket appearing on Complainant's Exhibit No. 8. I direct your attention, Mr. Gilby, further to the first printed weight
688 figure and the first head count shown on that scale ticket. You will notice that the first weight figure printed is 15,100 pounds and the head count for that weight figure is 66? A. Yes.

Q. I will ask you to point out on Respondents' Exhibit No. 10 where you find that weight figure and head count. A. I don't believe I will find that because that is a detail of this 744 appearing on this side which is not detailed on here.

Q. Well, is there any combination of weights on Respondent's Exhibit No. 8 which corresponds to the weight figures appearing upon Complainant's Exhibit 8-A? A. No.

Q. In other words, the first weight figure and head count is an entirely arbitrary and fictitious weight figure and head count? A. No, I don't agree to that.

Q. Can you point to anything in your exhibit -- A. (Interrupting) No, I cannot.

Q. There is nothing at all in Respondents' Exhibit No. 10 which supports the weight figure of 15,100 and a head count of 66? A. Not that I can find here because I would have to find the weight down the other side.

689 Q. And the same thing is true of all of the other weight figures and head counts shown on scale tickets and Complainant's Exhibit No. 8? A. That's right.

Q. And what you have just testified with respect to Complainant's Exhibit No. 8 is also true, is it not, of --

PRESIDING OFFICER BAIN (interrupting): The ones without any signature on them are the copies, the originals have J.W.B. on them.

BY MR. MILLER:

Q. Your testimony with respect to the weight and head count figure as appearing on the scale tickets covered by Complainant's Exhibit No. 8 would also be true, Mr. Gilby, with respect to the scale tickets covered by Complainant's Exhibit No. 10? A. Without further examination, yes.

Q. Would you like to examine them? A. There isn't the data here that I can examine this with.

Q. You have complete data concerning that transaction, do you not, Mr. Gilby? A. On the sale side it is one sum on the invoice. That is the first one that is shown here, possibly it is the same on the other.

Q. Now, the last sheet of Respondents' Exhibit No. 5 covers that same transaction, does it not, Mr. Gilby? A. The one that you are now showing me?

690 Q. It covers the same transaction as is covered by Complainant's Exhibits 9 and 10? A. Yes, and it wouldn't follow that, this would be the same order or with the same condensation.

Q. Are there any weight figures at all in Respondents' Exhibit No. 5

which correspond to the weight and head count figures appearing upon the scale tickets covered by Complainant's Exhibit No. 10? A. I can't identify it as such. There happens to be a scale ticket for 26 which appears on here. I can't identify --

PRESIDING OFFICER BAIN (interrupting): On here, is that on respondents' exhibit or complainant's exhibit?

THE WITNESS: On this invoice.

PRESIDING OFFICER BAIN: That is Complainant's Exhibit No. 9. When you are reading the transcript you would have been talking about respondents' exhibit, that is the reason I wanted it to show.

BY MR. MILLER:

Q. As a matter of fact, isn't it true, Mr. Gilby, that the weight figures and the head count figures appearing on the scale tickets covered by Complainant's Exhibit No. 10 could not correspond in any way, shape or fashion with any of the weight figures and head count figures appearing in Respondents' Exhibit No. 5? A. They do in totals but these scale tickets are footed, they will come to the same total weight and total head count.

691 Q. In other words, Mr. Gilby, the scale tickets about which you have just been testifying covered by Complainant's Exhibit No. 10 were all printed in Chapin, Illinois, were they not? A. Yes.

Q. And there were no hogs on the scale platform when the scale tickets were printed, isn't that correct? A. I have knowledge that that is the case but I haven't seen it.

Q. So that actually what the person did in turning those scale tickets was to print a series of scale tickets which came out with a total weight as shown on the invoice and a total head count as shown on the invoice, isn't that correct? A. Yes.

Q. Who printed those scale tickets? A. I can't answer that.

Q. Did somebody at Chapin print the scale tickets? A. Yes.

Q. Did Mr. Ischer print them? A. I couldn't answer that because I don't know the handwriting.

692 Q. Who normally prints scale tickets such as that? A. There is three or four--on such as this?

Q. Yes. A. Again I think it is more than one party because of the handwriting.

Q. How many employees are there at Chapin who might have printed these scale tickets?

MR. MELNICOFF: I object. This is sheer speculation. The witness testified that he doesn't know who printed the tickets.

PRESIDING OFFICER BAIN: He said three or four, I think he may ask.

MR. MILLER: We have got a possible criminal offense here.

MR. MELNICOFF: The witness testified that he does not know who printed the tickets.

PRESIDING OFFICER BAIN: I think he said there were three or four that could have. I think he may examine into whether that three may mean three or four. Objection overruled.

BY MR. MILLER:

Q. Which three or four persons might have printed these scale tickets?

MR. MELNICOFF: Those three or four people, if they do anything that they would have access to the scale, that is all he said, not that they could have printed these tickets.

693 PRESIDING OFFICER BAIN: I don't remember him saying anything about who had access to the scale. The objection is overruled. He may answer.

A. It could be possibly the bookkeeper.

BY MR. MILLER:

Q. What is his name? A. He is not with us now. It could be Mr. Bryant, it could be Mr. Ischer, it could be Mr. Gibson.

PRESIDING OFFICER BAIN: What was the first name?

THE WITNESS: Hazelrigg.

BY MR. MILLER:

Q. It could have been any one of these four employees? A. It could.

Q. It could have been all of the four employees? A. Might have been.

Q. And at various times each one of these employees printed scale tickets?

MR. MELNICOFF: I object to that, Mr. Examiner. Printed scale tickets when and what kind of scale tickets? Mr. Miller has indicated he is now on fishing expedition to determine responsibility. I think in that case he ought to be restricted specifically in his inquiries. We are talking about several things here.

MR. MILLER: Now I am talking about scale tickets covered by Complainant's Exhibits 8, 10, 12, 14, 16, 18 and 20.

694 MR. MELNICOFF: And the witness has testified that he does not know who printed those tickets. Are you now engaged in a fishing expedition as to who might have done so and as to the number of people who have access to the scales? Any further inquiry along this line, Mr. Examiner, I suggest is asking for a sheer speculation, is nothing but a fishing expedition. He might as well get the complete roster of employees or persons who were employed.

PRESIDING OFFICER BAIN: I think it is a proper question on cross. The objection is overruled.

BY MR. MILLER:

Q. With respect to the scale tickets which are in evidence and covered by the exhibits of complainants which I have just referred to is it your testimony, Mr. Gilby, that anyone of these four employees of Midwest Order Buyers that you have named could have printed those scale tickets? A. Yes.

Q. Now, you mentioned first of all Mr. Hazelrigg. Is he still employed by the Midwest Order Buyers? A. No.

Q. Where is he now? A. I can't answer that, he is not with us.

Q. You know he is no longer with you? A. Yes.

Q. How about Mr. Bryant, is he still employed? A. Yes.

695 Q. And Mr. Ischer is? A. Yes.

Q. And how about Mr. Gibson? A. Yes.

Q. Are they still employed by the Midwest Order Buyers of Chapin, Illinois? A. Yes.

Q. Mr. Gilby, I would just like to lay out here in front of you the scale tickets covered by Complainant's Exhibit 8, 10, 18 and 16. I have just picked these out at random. I wonder if you could tell by an examination of those scale tickets whether or not it appears to you that all of those scale tickets are in the same handwriting?

MR. MELNICOFF: I object to that. This witness hasn't qualified as an expert. When the government thought they had to have an expert on something they brought one in.

MR. MILLER: When we need an expert we will get one. I asked the witness whether or not he could tell from the examination of those documents whether or not they are all in the same handwriting.

MR. MELNICOFF: He is not competent at all to testify whether they are the same or different. Moreover, these are photographic, as I understand it, reproductions.

MR. MILLER: These are original scale tickets.

696 MR. MELNICOFF: He is not in a position to testify, his testimony would have no effect whatsoever whether they are or not in the same handwriting.

PRESIDING OFFICER BAIN: He was asked whether he could tell. I think he may answer whether he could tell. A. I cannot.

BY MR. MILLER:

Q. You testified yesterday that you were familiar with all the operations of Midwest Order Buyers and had an intimate familiarity with all the records maintained at Chapin. Do you recognize the handwriting on any of these scale tickets?

MR. MELNICOFF: I object to that, that is asking for a comparison and the matters with which he is asked to compare these present writings is not present here in the courtroom nor is it shown to the witness. For that reason I object to the question.

PRESIDING OFFICER BAIN: The question is, does he recognize the writing.

MR. MELNICOFF: As compared with something else.

PRESIDING OFFICER BAIN: Did you say that, Mr. Miller?

MR. MILLER: No, sir.

MR. MELNICOFF: I am not disposed to argue with the Examiner's ruling. He called attention to the fact that he testified previously he was familiar with the books and records and accounts and everything else.

697 He asked him on the basis of that familiarity was he familiar with these documents before him. He asked him to make a comparison.

PRESIDING OFFICER BAIN: He was not asking him to compare, he was asking him if he recognized the handwriting. I think it is a proper question. The objection is overruled.

THE WITNESS: I do not.

BY MR. MILLER:

Q. You testified, Mr. Gilby, that the scale tickets in question covered by Complainant's Exhibits 8, 10, 12, 14, 16, 18 and 20 were sent to the various packers involved in support of the invoices, is that correct? A. Yes.

Q. And why did the packers want the scale tickets in the first place, Mr. Gilby? A. I dare say they wanted to compare it with their cost record.

Q. As a matter of fact, they wanted scale tickets to support the invoice weights, did they not? A. These or this packer probably does.

Q. That is true of Heil Packing Company here in St. Louis, is it not? A. I can't answer for all the shipments to Heil.

Q. Isn't it a fact that Heil is one of the packers that has requested Midwest Order Buyers to furnish them with scale tickets to support invoice weights? A. I can't answer that.

698 Q. Well, I believe that-- A. (Interrupting) I do know that the scale tickets are sent to Heil.

Q. I believe you testified that Heil was one of the packers? A. No; that asks for scale tickets, I don't think that is Heil.

Q. In your normal operations Midwest Order Buyers would not send scale tickets to packers unless the packers requested them, is that correct?

MR. MELNICOFF: I object to that, that is asking for a conclusion, is sheer speculation. It is beyond any evidence that is in this record. This witness testified that he doesn't know. I object to the question.

PRESIDING OFFICER BAIN: Some witness for respondents has testified to that effect and I believe Mr. Gilby has been the only one on the stand. I think it is a proper question. He may answer.

A. Please read the question.

(Question read.)

A. Yes.

BY MR. MILLER:

Q. Now, Mr. Gilby, I hand you Complainant's Exhibit 43 about
699 which you testified yesterday. You testified that on the Sparks' copy of the scale tickets which is Complainant's Exhibit 43-B, a head count of 144 had been changed in pencil to 138. You further testified that you investigated that transaction, is that correct? A. Yes.

Q. And exactly what did you do in that investigation? A. We have to have authority for making that change and it is right on this scale ticket that the authority came from the yard company and it is their copy to make the change.

Q. Now, you weren't there when this transaction took place? A. No.

Q. Exactly what did you do in conducting this investigation? A. I did the same as--well, I shouldn't say that. But I inquired as to why there should be a change from 144 to 138.

Q. Who did you inquire of? A. Of various parties at Harry L. Sparks & Company, National Stockyards.

Q. Which ones? A. I inquired of Harry Sparks, I inquired, I don't know who all, but I confirmed that this was an order of the yard company.

Q. So that everything you testified about yesterday with respect to
700 this transaction was based upon what you had learned from various employees of H. L. Sparks & Company? A. Yes. I had decided when the Order of Inquiry came that I would make an examination of my own being in that position with Harry L. Sparks & Company, which I did.

Q. In other words, you have no personal knowledge of this transaction? A. I wasn't there.

Q. Now, what was it you testified to that you learned about this transaction? I believe you said that according to your investigation you learned that that head count change was made by order of the stockyard company employees, is that correct? A. One thirty-eight is the count of the yard company employees.

Q. Is it your testimony that that change on the Sparks' copy of the scale ticket was done pursuant to an order of the stockyard company employee? A. That's correct.

Q. Who was that employee? A. I can't answer that, whoever the scale master or scaler was at the time.

Q. You mean that was done on the order of a weighmaster, the weigher? A. That is what I infer.

701 Q. The weigher in that transaction is identified on the scale ticket as being "W". Do you know who that weigher is? A. I do not know.

Q. It is your testimony that this particular weigher at Scale 16 on that particular day told an employee of Sparks & Company to change that head count figure? A. Yes, and you will find the--in our records there is a note made out.

Q. Now, since you made such a thorough investigation of this matter, Mr. Gilby, did you discuss this with anybody connected with the stockyard company? A. I did not.

Q. You did not? A. No.

Q. Incidentally, Mr. Gilby, before we pass onto another transaction, did you talk to the weighmaster involved in this instance? A. I did not.

Q. You did not? A. No.

Q. Do you know whether or not the "W" initial of the weighmaster is a weighmaster named Williams? A. I do not.

Q. You don't know? A. No.

702 Q. I believe you testified, Mr. Gilby, that in the transactions covered by Complainant's Exhibits 45, 47 and 49 that the same thing occurred? A. Could you refer to the Order of Inquiry and tell me what paragraph?

Q. Yes, sir, I would be glad to. It is paragraph 11, Mr. Gilby, and the transaction about which we have just been talking, the transaction covered by Complainant's Exhibit 43 is the first transaction listed in paragraph 11. Now, Complainant's Exhibits 45, 47 and 49 cover the remaining transactions in paragraph -- subparagraph A of paragraph 11. A. Shall I answer as to all of these?

Q. No. My question was, Mr. Gilby, that yesterday you testified, as I recall, that in the transactions covered by Complainant's Exhibits 45, 47 and 49, that the same thing occurred, namely, that the head count was changed on the Sparks' copy of the scale ticket pursuant to an order of a stockyard company employee, is that correct? A. That's correct.

Q. So that your explanation of those three transactions will be the same as what you have testified to with respect to the transactions covered by Complainant's Exhibit 43, is that correct? A. Yes.

703 Q. And you say in each case the head count was changed by the weighmaster or pursuant -- A. (Interrupting) By instructions.

Q. From the weighmaster? A. From the division, the weighmaster is the usual one or the scaler might call up.

Q. Now, may I see the documents which you used yesterday in testifying about these transactions? These are, what you have handed me, the actual copies of the scale tickets in the records of Sparks? A. It is our retained copies, H. L. Sparks & Company.

Q. These are the tickets which are retained in the records of H. L. Sparks & Company? A. It is our copy that is retained.

Q. Now, referring to the Sparks' copy, Mr. Gilby, of the scale ticket covered by Complainant's Exhibit 49-B, I notice some writing here. Whose writing is that? A. My writing at the time of inquiry. That is my writing at the time of inquiry.

Q. At the time of the inquiry you made some writing on the Sparks' copy? A. Yes.

Q. That did not appear upon the original scale tickets, is that correct? It did not appear on your retained copy? A. No, sir.

704 Q. There is nothing at all on the copies of the scale tickets retained in the records of H. L. Sparks & Company to indicate that the head count was changed pursuant to the order of the weighmaster? A. I

don't see it here but I did explain that we do make a notation of it on our record which is a record of the scale ticket and we initial that record to show who gave the instructions.

Q. My question was, there is nothing on the H. L. Sparks Company's copy of these scale tickets to indicate why that change was made, is there? A. Now, you are talking about these scale tickets?

Q. The four scale tickets. A. This is the one that I was answering for. No, there is nothing to indicate on either of these scale tickets.

Q. And that is true of the Sparks Company's copy of the scale tickets in the transactions covered by Complainant's Exhibits 43, 45, 47 and 49, is it not? A. That's correct.

Q. Now, you referred to some notation made in some other record of Sparks & Company with respect to this change in head count. In what record were those entries made? A. In the record where it shows the sales or invoices.

Q. What type of record is that? A. I called it a sales record.

705 Q. A sales record? A. It is a combination of cash receipts, cash disbursements, accounts receivable and payments.

Q. General ledger? A. Well, it is a combination of the journal and the cash book, which books are posted to the general ledger.

Q. Is that the book which shows all of the purchases of hogs? A. Yes, sir.

Q. Now, Mr. Gilby, I hand you Complainant's Exhibit No. 51. I believe you testified with respect to that transaction yesterday. I direct your attention to the written or pencil notation appearing on Complainant's Exhibit 51-B, the notation 390 pounds, three off. Do you see that? A. Yes, I see that on this copy.

Q. Who put that on the scale ticket? A. Will you designate what that is on this Order of Inquiry, Mr. Miller?

Q. Yes, sir, I will be glad to. A. Then I can trace it here.

MR. MELNICOFF: To which paragraph are you referring, Mr. Miller?

PRESIDING OFFICER BAIN: I wish we could stay entirely on the record because these remarks off the record may explain it to us here

706 but it won't help me. It was in such a low voice that I couldn't hear it right here and I am sure the reporter couldn't hear it on the other side of me.

MR. MELNICOFF: Were you referring to my question, Mr. Examiner?

THE WITNESS: My answers?

PRESIDING OFFICER BAIN: Where Mr. Miller showed the witness what the transaction was. Now, if it is important that that be known to the record it had better be on the record.

MR. MILLER: I am referring now to the first transaction of subparagraph B of paragraph 11 and have so pointed it out to Mr. Gilby.

PRESIDING OFFICER BAIN: Yes, sir.

BY MR. MILLER:

Q. Now, Mr. Gilby, my question was who placed the notations 390 and three off on that scale ticket? A. I take it to be one of Harry L. Sparks' employees.

Q. And what was your explanation for the reason for those notations? A. I said that the BAI had taken out the lot, those three hogs.

Q. You don't mean that the BAI took the three hogs out? A. They stripe it with a yellow or white stripe.

Q. BAI didn't remove the hogs? A. They designated what had to

707 be taken out.

Q. The BAI designated three hogs that should be removed? A. That's right.

Q. Then the hogs were removed by H. L. Sparks & Company, is that not correct? A. Whoever was handling the hogs at that time.

Q. And I believe you testified that those hogs were subsequently resold to another buyer? A. Yes, Knapp, who is a speculater and buys all the hogs.

Q. And those three hogs were never weighed, were they? A. When they went to Knapp they were weighed.

Q. Where is the scale ticket? Do you have a scale ticket on that?

A. Those were the three that were excluded by you. I was never asked any questions. That is these three items, the last two items on that page.

Q. Mr. Gilby, we are now referring to the first transaction alleged in subparagraph B of paragraph 11 of the Order of Inquiry. It is the transaction covered by Complainant's Exhibit No. 51 about which you testified yesterday. A. Yes. And it relates to some shipment to Knapp. I have several of these shipments on this same page at the bottom showing what Knapp does with them and the invoice to Knapp and so on.

708 Q. I am not talking about any transactions other than the transactions which took place up to January 6, 1954. A. So far as what is related in the Order of Inquiry I cannot identify those three in the invoice that we have here in the Order of Inquiry.

Q. There aren't any invoices in the Order of Inquiry which are alleged. We are talking now about changes on scale tickets, Mr. Gilby. A. True, they reflect them on an invoice.

Q. The 57 head in this transaction of January 6, 1954, were sold at a weight of 8,650 pounds to a particular purchaser. What I have asked you is were those three hogs that were taken off ever weighed? A. I can't answer that, sir.

Q. As a matter of fact, they weren't, were they? A. No, I wouldn't say they were not because the usual procedure is to reduce the charge.

Q. You have no scale ticket covering those three hogs? A. Exactly.

Q. You do? A. I have the scale ticket that we have here.

Q. You have a scale ticket? A. A copy of which is that.

Q. You have a scale ticket showing a weighing of three hogs at 390 pounds? A. No, I have a scale ticket which shows exactly as that one
709 does with the three deducted from the items that are on the scale ticket.

Q. You have the Sparks' copy of the scale ticket covered by Complainant's Exhibit 15-B? A. Yes.

Q. Or, in other words, Complainant's Exhibit 51-B is a copy of the scale ticket which you now have in your possession? A. That's right.

Q. Did you have another scale ticket showing the weighing of three hogs at 390 pounds? A. I have that scale ticket in some purchase of Knapp's. I don't have it here.

Q. You don't have it here? A. No.

Q. Can you get it for us? A. Yes, I think I can.

Q. How long would it take you to get that, Mr. Gilby? A. I would have to go out there personally to show what I need it for and when I can get over there, it will take time.

Q. All you would have to do is call the stockyards and ask them to get a scale ticket dated January 6, 1954, showing the weighing? A. No, because they would be sold to Knapp two or three days or even more than

710 that after.

Q. These three might have been sold two or three days after? A. Yes.

Q. The entry on the scale ticket was made on January 6, 1954? A. In pencil, yes.

Q. Then if a scale ticket to Knapp was made subsequent to that time this entry could not have been based upon a scale ticket, could it? A. I couldn't answer that at the present time until I looked at the item as it went into Knapp.

Q. Is it your testimony now that the scale ticket to Knapp about which you are testifying would have been made at a later date? A. No, I am telling you that it was sold to Knapp at a later date.

Q. It was sold to Knapp at a later date? A. Yes.

Q. So that -- then hogs are weighed when they are sold? A. Both when they are sold and maybe when they are sold which is not shipped for a week.

Q. But the weighing of the livestock -- strike that, please. The title passes at the time the livestock goes across the scale, does it not? A. To whom?

711 Q. From a buyer to a seller? A. Usually, yes.

Q. Now, Mr. Gilby, directing your attention to Complainant's Exhibit No. 53 I believe you testified with respect to that transaction yesterday and for your further information that would be the second transaction listed in subparagraph B of paragraph 11 of the Order of Inquiry, a transaction occurring on June 8, 1954. A. I have it.

Q. What was your explanation for that transaction, Mr. Gilby.

MR. MELNICOFF: May I interrupt? Did I understand Mr. Miller to say that was dated June 11, 1954?

MR. MILLER: June 8, Mr. Melnicoff.

MR. MELNICOFF: I thought you said June 11, I beg your pardon, excuse me.

BY MR. MILLER:

Q. Let me ask you this question, Mr. Gilby. The original scale ticket as made by the stockyard company shows a weighing of 121 hogs at a total weight of 27,945 pounds, is that correct? A. That is the printed weight, 127,000.

Q. That is the printed weight 27,945 pounds? A. Or is it 127?

712 Q. For 121 hogs? A. Or is it 127?

Q. How many hogs were involved in that transaction? A. One hundred twenty-one.

Q. And the total weight appearing on the stockyard's scale ticket was 27,945 pounds, is that correct? A. No, I take it to be 127,945 pounds. However, the facts are that it was that. The scaler's stamp, if you would read that, but the facts are --

Q. (Interrupting) Mr. Gilby, I don't want to confuse you. I think you are misreading that number because certainly the two weights which have been added by Sparks & Company add up to the same figure, 27,945 pounds.

MR. MELNICOFF: Mr. Examiner, if I may interrupt just a moment, there seems to be some confusion. I have here the photostatic copy of Complainant's Exhibit No. 53 and may I call your attention, sir, to the fact that immediately to the left of the 2 there appears a white stripe which may look like a 1 and that may be the source of the witness' confusion as to whether that figure is twenty-seven thousand something or one hundred twenty-seven thousand. You see that, sir? I merely offer that as an explanation in this record at this time to reflect what I believe are all the facts.

PRESIDING OFFICER BAIN: I think it is quite apparent that the mark which might be considered a 1 is an impression made by the carbon
713 copy which was used to stamp the weight. You will notice at the top of the scale ticket, you will see a similar thing clear across where the carbon was. I don't think there is any question about that.

MR. MELNICOFF: I am not disputing the number. I merely offered this as an explanation as to why the witness appeared to have some confusion about the question.

PRESIDING OFFICER BAIN: Yes.

THE WITNESS: I answered the total was 27,945.

BY MR. MILLER:

Q. Do you have before you, Mr. Gilby, the copy of this same scale ticket retained in the records of H. L. Sparks & Company? A. I have.

Q. And is there on that copy of the scale ticket the written notation 6250 for a weight figure and 25 for a head count figure? A. Yes, this is it. What is your question?

Q. A written weight figure of 6,250 pounds. A. On this copy?

Q. On the Sparks copy of the scale ticket. A. Yes.

Q. And does there appear a written weight figure of 21,695 pounds? A. Yes.

714 Q. And is there a head count written in of 25 which corresponds with the weight figure of 6,250 pounds? A. Yes.

Q. And is there a head count figure written in of 96 which corresponds with the 21,695 pounds? A. Yes.

Q. Who made those notations on the scale ticket, Mr. Gilby? A. The same party who wrote in the weight of 27,945 pounds wrote in the number of hogs, 24, the 6,250 pounds weight was written in by somebody else. The 6,950 was written in by somebody else as was the 96, 95.

Q. I am confused, Mr. Gilby. A. No, there is the copy.

Q. Is it your testimony that the head count number of 25 was written in by the weigher? A. This 121 is the information we get from the scaler. This is the same writing.

Q. Let's start over again. A. Right.

Q. Who is it that wrote the head count 121 on the scale ticket? A. I can't answer you as to who.

Q. That would be the weigher, would it not? A. Yes.

715 Q. Now, you are stating that the weigher also wrote the head count 25 on this scale ticket? A. Yes, same handwriting.

Q. Are you now a handwriting expert, Mr. Gilby? A. No, anybody can tell that.

Q. You couldn't identify the handwriting of your own employees on the scale tickets printed at Chapin? A. My own employees --

MR. MELNICOFF (interrupting): I object to that, it is argumentative. Secondly, the employees sometime ago were not and are not the employees of this witness. I respectfully request that the inquiry be stricken.

MR. MILLER: I have no objection to striking that question. I realize full well that the persons who printed those scale tickets were employees of Midwest Order Buyers and are not employees of Mr. Gilby.

PRESIDING OFFICER BAIN: I think it should remain in the transcript. The motion will be denied.

MR. MELNICOFF: May I show an objection to the question for the grounds and on the reason indicated?

PRESIDING OFFICER BAIN: The objection is overruled. The motion to strike is denied.

BY MR. MILLER:

Q. Are you testifying, Mr. Gilby, that on the basis of your examination for the figures 121 and the figures 25 that you can state that both

716 those figures were written by the same person? A. Without answering yes or no can I refer to my testimony of yesterday?

PRESIDING OFFICER BAIN: No, sir, this is a different question, Mr. Gilby?

THE WITNESS: Yes, I am willing to state that.

BY MR. MILLER:

Q. That 25 notation does not appear upon the original scale ticket which was made out at the time the weigher made that scale ticket? A.

I don't know. You have given me a scale ticket retained for the stockyard scale ticket which I have never seen.

Q. I am handing it to you now, Complainant's Exhibit 53-A is the original scale ticket made out by the weigher on that scale. Is there a notation 25 appearing on that scale ticket? A. No.

Q. How do you account for your testimony that the 25 figure appears upon the Sparks' scale ticket upon the copy which was made by the weigher? A. Because we weighed 25 hogs to get the weight on that for the purpose of a price.

Q. Oh, the 25 hogs were weighed? A. Yes, sir.

717 Q. Why doesn't the weight of those 25 hogs appear on that scale ticket as a printed figure? A. I can't answer that because I don't control the scaler.

Q. Do you have a catch weight ticket on those 25 hogs? A. I have never looked for it.

Q. And yet you are willing to come in here and testify that that 25 head count was placed on there by the weigher? A. I didn't say it was placed on -- on this 25?

Q. Yes. A. Yes.

Q. The 25 head count was placed on the Sparks' copy of the scale ticket which is Complainant's Exhibit 53-B and you say it was placed on there by the weigher? A. Yes.

Q. And you reached that conclusion solely upon a comparison of the handwriting, is that correct? A. No, I didn't because I knew we had the weight of this 25.

Q. Where did you get the weight of that 25? A. I got it from records that had to do with this shipment which are not here.

Q. What records are those? A. The record that shows the division between the 25 and a half cent hog and the 26 cent hog.

718 Q. Did those records contain a catch weight ticket? A. I don't know whether it is a catch weight or some other ticket.

Q. Do those records contain a scale ticket showing the weighing of 25 hogs at 6,250 pounds? A. It contains a record of 25 hogs, 6,250 pounds.

Q. As a matter of fact, the records merely contain an entry which corresponds to an entry on this scale ticket, is that not correct? A. Yes.

Q. In other words, the records which you are referring to are records which contain an entry which is exactly the same type of entry as appears on Complainant's Exhibit 53-B ? A. Please restate that question.

Q. I say the entry you are referring to merely shows 25 hogs at a weight of 6,250 pounds? A. Yes.

Q. It is not a scale ticket that you are referring to? A. I haven't looked for a scale ticket. It might be a catch weight.

Q. Now, how about the figure 96? A. Having the purpose in mind it would probably answer your question, simply the notation is made on here. The breakdown of 121 hogs for the purpose of placing 25 and a half cents
719 on a portion of them and 26 cents on the other.

Q. Which weighmaster out at the stockyards goes by the initial E.W.? A. That I don't know.

Q. You never talked to any weighmaster whose initials are E.W.? A. No.

Q. May I see the copy of the scale ticket from which you have been testifying, Mr. Gilby, the Sparks' copy of the Complainant's Exhibit 53-B?

PRESIDING OFFICER BAIN: Isn't that the one you were just testifying from?

THE WITNESS: Yes.

MR. MILLER: I am about through. I will have only ten or twenty minutes.

PRESIDING OFFICER BAIN: I want to straighten up the papers.

THE WITNESS: I have it, Mr. Miller.

MR. MELNICOFF: In order that the record may be clear it is my understanding and I wish to have it confirmed that what Mr. Miller described as the Sparks' copy of the Complainant's Exhibit 53-B is not in evidence, that physical piece of paper, nor is it marked for identification.

PRESIDING OFFICER BAIN: It is not in evidence, I don't remember marking it.

720 MR. MELNICOFF: Thank you, sir.

MR. MILLER: That is correct, Mr. Melnicoff, a copy of the scale ticket retained in the records of H. L. Sparks & Company is in evidence as Complainant's Exhibit 53-B. Mr. Gilby has been testifying from the actual Sparks' records rather than the copy that is in evidence.

MR. MELNICOFF: Thank you, that is my understanding. I just wanted it confirmed.

BY MR. MILLER:

Q. Mr. Gilby, on the basis of your testimony with respect to the person who put the writing on that scale ticket I ask you once again to look at the writing appearing upon the scale tickets covered by Complainant's Exhibits 8 and 10 and ask whether or not you can state whether or not those scale tickets were prepared by the same person?

MR. MELNICOFF: Again, Mr. Examiner, I object to this calling for a conclusion of the witness. He is not a handwriting expert and that question is completely improper and should not be addressed to this witness at this time.

PRESIDING OFFICER BAIN: I believe you are estopped to make that objection at this stage. The objection is overruled.

BY MR. MILLER:

Q. Will you examine the writing on the scale tickets on Complainant's Exhibits 8 and 10 and state whether or not, in your opinion, those
721 scale tickets were made by the same person? A. May I clarify
that by the same person who made all of these scale tickets?

Q. If they weren't all made by the same person you may state that fact. A. You cannot identify that this scale ticket, the writing of the head on there is the same person by reviewing all of those scale tickets.

Q. I am not asking you to compare the stockyard -- strike that. I am not asking you to compare the scale ticket covered by Complainant's Exhibit 53-B with these scale tickets. I am asking you to compare the scale tickets covered by Complainant's Exhibit No. 8 with the scale tickets covered by Complainant's Exhibit No. 10. A. I didn't understand.

Q. I ask you to state whether or not, in your opinion, those scale tickets were made by the same person.

MR. MELNICOFF: Just a moment. May I see those before the witness answers, please?

THE WITNESS: Yes.

PRESIDING OFFICER BAIN: No, it is not to compare anything. It is to state whether they were prepared by the same person.

MR. MELNICOFF: If I understand the question correctly, Mr.
722 Examiner, the witness was asked to look at Complainant's Exhibits No. 8 and 10 and asked whether, in his judgment, the handwriting appearing on the scale tickets reflected by those exhibits were prepared by the same person in making that determination by comparing his handwriting. I do not wish to appear to be stubborn, notwithstanding the Examiner's ruling in the previous instance, I again insist that this witness cannot be asked to make that comparison. A moment ago you mentioned estoppel. I assume that estoppel for me to raise that objection is based upon the witness' own testimony a few moments ago which he volunteered which was some sort of a statement comparing handwriting. That in itself, Mr. Examiner, I respectfully submit is not the ground to offer estoppel against me to raise an objection for the reason, among others, that that was a voluntary statement by the witness and improper statement and the plain fact is this man is not a handwriting expert.

PRESIDING OFFICER BAIN: Do you want me to strike the testimony about the figures on the respondents' copy of the scale ticket? If he is not a handwriting expert in one place he is not in another.

MR. MELNICOFF: I don't think he is a handwriting expert.

PRESIDING OFFICER BAIN: Do you want to strike all of his testimony about those two figures on the scale ticket copy?

723 MR. MELNICOFF: What evidence are you talking about now, sir? I can't fix it in my mind.

PRESIDING OFFICER BAIN: The objection is overruled. I think the record will clearly show what I am talking about.

MR. MELNICOFF: All his testimony concerning those two exhibits, that is only part of your statement as I understand.

PRESIDING OFFICER BAIN: I said your objection is overruled. The witness is instructed to answer the question.

THE WITNESS: You are through with referring to this?

PRESIDING OFFICER BAIN: This is a simple question, please. This question is about the two exhibits I have in my hand containing six on each one, six copies of scale tickets on each one. The question is simply, can you tell whether those were all prepared by the same person. There is nothing complicated about that question.

THE WITNESS: There are 12 scale tickets involved?

BY MR. MILLER:

Q. Yes, sir, six on each exhibit. A. I would conclude that they are not all made by the same person.

Q. You would conclude that they were not all made by the same person? A. These figures are not the same figures of the same person.

724 * * * * *

Q. Now, Mr. Gilby, directing your attention to Complainant's Exhibit No. 55 about which you testified yesterday Complainant's Exhibit 55-A being the original stockyard company scale ticket and Complainant's

725 Exhibit 55-B being a copy of that same scale ticket as retained in the records of H. L. Sparks & Company, is that right? A. Yes.

Q. Now, you testified yesterday, Mr. Gilby, with respect to the entry on the Sparks' copy of the scale ticket of 30 head, a weight of 4,960 pounds, do you see those entries? A. I do.

Q. And what was your explanation for those entries appearing on the Sparks' copy of the scale ticket? A. My explanation was that it was a division made of the 93 head for the purpose of price and that the weight and the figures 4,960 were given to H. L. Sparks & Company by the scaler.

Q. Is it your testimony, Mr. Gilby, that that entry was made on that Sparks' copy of the scale ticket by the weigher? A. The printed weight is by the weigher.

Q. Well, the printed weight relates to 93 head, does it not? A. It does.

Q. What about the weight figure relating to the 30 head? A. The 93 head and the 30 head are presumably in the same handwriting.

726 Q. Is it your testimony that the entry, 30, showing the number of hogs was made by the weigher? A. No, that is not my contention nor is it my contention I shouldn't answer that, I guess.

Q. What is your contention, Mr. Gilby? A. My contention is, that the number of head was written on there at the time of the scaling and at that same time it was divided so as to have the number of head to be sold at a price which happened to be 30 from the 93 that we secured that scaling at that time relative to the 30.

Q. All I want to know -- A. (Interrupting) The handwriting down there is the same.

Q. All I am trying to find out is this. With reference to that figure 30 appearing on the Sparks' copy of the scale ticket, who put that entry on the scale ticket? A. I am not prepared to say who.

Q. You don't know? A. No, I don't.

Q. Is that correct? A. That's correct.

Q. You don't know any others, do you? A. Well, some I do know. You are asking me about this particular one.

Q. Was it a Sparks' employee that put that 30 there? A. It would seem to me, yes. I have no actual evidence.

727 Q. Well, then, a Sparks' employee put the entry on the previous scale ticket we were testifying about, too, is that not correct? A. No, I didn't say that.

Q. How do you differentiate between the two? A. I don't differentiate except that it is a different scale ticket.

Q. Who put the weight figure 4,960 pounds on there? A. I can't give you the name of the party who did that.

Q. Was it a Sparks' employee? A. That I can't answer.

Q. It wasn't a weigher, was it? A. If it was the weigher it was put on at the same time as the 93.

Q. If it was the weigher? A. That was put on at the time of the weighing.

Q. If it was the weigher and if it was put on at the same time as the 93 head count that would appear on the original scale ticket, would it not? A. The 30, not necessarily, if the stockyards don't complete their job.

Q. Mr. Gilby, Complainant's Exhibit 55-B is a copy of Complainant's Exhibit 55-A, it is a copy made at the time the scale ticket was issued. Now, if the weigher put 93 on there, on the original scale ticket and if at that time he put 30 on the scale ticket the 30 entry would appear on the original scale ticket, would it not? A. Not necessarily, if it was

728 a breakdown of this weight to get a portion for one price and a portion for another price.

Q. Actually what this is is what they refer to as a pencil sort, isn't it, Mr. Gilby? A. Well, it is a sort prepared to the billing as to price.

Q. And do you understand what I mean by the term pencil sort? A. You can get a catch weight and that becomes a pencil sort.

Q. I am not talking about a catch weight. A. I am not familiar with the pencil sort knowledge.

Q. I am referring to a sort that is made by a pencil rather than by a scale. A. Well, as I understood it we did get the weight off the scale of the 4,960 pounds which has reference to the 30.

Q. Where did you get that understanding? A. My examination of this scale ticket.

Q. The examination of the scale ticket. Are you stating, Mr. Gilby -- A. (Interrupting) As a result of my examination I had written on this scale ticket that the scaler did this.

729 Q. Are you stating, Mr. Gilby, that your understanding of this entire transaction is based solely upon your examination of the scale ticket in question? A. No, I inquired of various people interested in this invoice. The scale ticket is in confirmation of what I got.

Q. Who did you inquire of? A. It must have been six or seven people. One, for example, that records this in the book, the invoice, and the one that records it from the scale ticket to the invoice. I went through the procedure.

Q. Well, since you made such an inquiry did you inquire of the weigher whose initials appear on this scale ticket as "H"? A. I did not.

Q. His name is Horton, is it not? A. It may be.

Q. You did not? A. No.

Q. And even though you talked to six or seven people trying to investigate this matter you didn't discuss this with any employee of the stockyards company? A. That's correct.

Q. And you found no catch weight ticket in connection with your investigation, did you? A. I didn't look for it.

730 Q. You didn't look for a catch weight ticket? A. No.

Q. You found no scale ticket at all showing the weighing of 30 head at 4,960 pounds, did you? A. I didn't but I didn't hunt for the catch weight.

Q. You made a thorough investigation? A. Catch weight.

Q. You made a thorough investigation of this transaction but didn't even look for a catch weight? A. I made an examination that I call thorough to come to the conclusion I have come to.

Q. Your examination did not involve a looking for a catch weight ticket on this transaction? A. That is correct.

Q. And it did not involve the discussing of it with any employee of the stockyards company? A. Yes, I did.

Q. Of the stock yards company? A. No, sir.

Q. Now, Mr. Gilby, I direct your attention to Complainant's Exhibit No. 61, Complainant's Exhibit 61 is divided into two parts, 61-A is the original stockyards company scale ticket, part B is the copy of that same scale ticket retained in the records of H. L. Sparks & Company? A. Please, will you help me identify on this on the Order of Inquiry?

731 Q. The transaction covered by Complainant's Exhibit 51 is --

MR. MELNICOFF (interrupting): Are you referring to 51 or 61?

MR. MILLER: Mr. Gilby handed me Complainant's Exhibit 51. The transaction which I am referring to now is covered by Complainant's Exhibit No. 61 and it is alleged in the Order of Inquiry in subparagraph B of paragraph 11 and it appears as the first transaction alleged on page 11 of the Order of Inquiry.

BY MR. MILLER:

Q. Do you have that transaction? A. I have it.

Q. I direct your attention to the entry which appears on the Sparks' copy of the scale ticket, Complainant's Exhibit 61-B, there is an entry for head count of one and a weight entry of 250 and on the Sparks' copy of such scale ticket, Complainant's Exhibit 61-B, such entries are written in. Will you state who put those entries on the Sparks' copy of the scale ticket? A. I cannot state the individual.

Q. Was it a Sparks' employee? A. I would say so.

Q. And what was your explanation for those entries on the scale
732 ticket? A. My explanation was that there was added a Sloe, that is 250 pounds, one hog, and that was a Sloe that appeared on the daily sheet which we keep in a running item of the one individual hogs or two individual hogs that have not appeared on an invoice as yet. When the time comes to ship it it is added to that invoice.

Q. You mean the daily sheet maintained by H. L. Sparks & Company shows one hog with a weight of 250 pounds, is that correct? A. Yes.

Q. And you concluded that the one hog weighing 250 pounds as it appeared on the daily sheet is the same hog that is listed on the Sparks' copy of this particular scale ticket, Complainant's Exhibit 61-B? A. Yes.

Q. And what is the basis of that conclusion? A. The basis for the conclusion is that the record of that sheet shows that it went to this invoice.

Q. Records of that sheet show that that was entered on this scale ticket? A. It doesn't tell me it was on the scale ticket. I am referring to the sheet. I do not have a scale ticket for the 250 pounds as I testified yesterday.

Q. You don't have a scale ticket? A. But you do have a record of
733 it on this sheet.

Q. In other words, the only record that H. L. Sparks & Company has of one hog weighing 250 pounds is in that daily sheet? A. There is no other on that date of 250 pounds.

Q. And there is no scale ticket for one hog weighing 250 pounds? A. Unless we had a catch weight ticket but I have not seen it.

Q. Did you look for it? A. No, sir, I didn't.

Q. Now, that daily sheet that you talked about -- strike that, please. If we assume that your testimony is correct, Mr. Gilby, even then that hog would have been a hog carried over, wouldn't it? A. Possibly, yes.

* * * * *

734 Q. Now, Mr. Gilby, with respect to your dealings with Mr. Hopper, district supervisor at Chicago, prior to the time that the investigation was made by the Packers & Stockyards Branch, I believe you testified a couple of days ago that Mr. Hopper contacted you with respect to looking at the books and records of Chapin, is that correct? A. Yes.

Q. And he informed you at that time that an audit of the records at Bushnell and Peoria could not be completed unless examination was made of the records at Chapin, is that correct?

MR. MELNICOFF: I believe that was a subject of correspondence which was admitted in this record. I believe this witness has those papers before him in testifying because he is asked now to recite something that is reflected in those written records. They are our Exhibits 1 and 2, is that right, these two letters?

PRESIDING OFFICER BAIN: Respondents' exhibits.

MR. MELNICOFF: Yes, sir, one in December and the other in January. Are they 1 and 2 or --

PRESIDING OFFICER BAIN (interrupting): Exhibit 1, according to my notes, is a Thermofax note before --

MR. MELNICOFF (interrupting): No, it is 2 and 3, then.

PRESIDING OFFICER BAIN: No. 2 is a letter.

735 MR. MELNICOFF: Yes.

PRESIDING OFFICER BAIN: Is that 2 and 3?

MR. MELNICOFF: Yes. I take it there is no objection to the witness having before him in connection with this inquiry, this line of inquiry, Respondents' Exhibits 2 and 3, Mr. Examiner? Am I correct now?

PRESIDING OFFICER BAIN: Is there any objection?

MR. MILLER: I didn't hear the objection or statement by counsel for respondents.

MR. MELNICOFF: I thought that in view of this inquiry that he should have before him Respondents' Exhibits 2 and 3 which are letters between Mr. Hopper and Mr. Gilby concerning the matter about which you now ask.

MR. MILLER: Oh, yes, certainly.

MR. MELNICOFF: Thank you very much.

MR. MILLER: My line of inquiry just a moment ago was with respect to conversations that Mr. Gilby had had with Mr. Hopper prior to the time these letters were written.

MR. MELNICOFF: That is perfectly all right.

BY MR. MILLER:

Q. Mr. Hopper did inform you that audits of H. L. Sparks & Company at Bushnell and Peoria could not be completed unless an investigation was made of the records at Chapin, is that not correct? A. That's right.

736 Q. And he then wrote you a letter in which he requested permission to look at the books and records of Midwest Order Buyers at Chapin concerning all their country point operations, is that not correct? A. You are talking about the posted markets in which he was already and he says "All other markets or country points where you operate as a buyer of livestock"?

Q. In other words, he requested that an investigator of the department be given permission to look at the books and records pertaining to all the buying points of Midwest Order Buyers, is that not correct? A. Yes.

Q. And who was that letter addressed to? A. Harry L. Sparks.

Q. And the request was not qualified in any respect, was it? A. Except as to subsequent conversation.

Q. But the written request is not qualified? A. This letter had not been changed in this form.

Q. By that letter are you referring to Respondents' Exhibit 2? A. It is the one to Harry L. Sparks.

Q. Is that Respondents' Exhibit No. 2? A. Yes.

Q. And Respondents' Exhibit No. 3 is your reply to Mr. Hopper's
737 letter? A. Yes, after a lot of conversation with Mr. Hopper.

Q. And in your reply you gave an investigator of the department permission to look at the books and records at Chapin, did you not?

MR. MELNICOFF: Just a moment, Mr. Examiner, I object to the characterization of that letter. It is in evidence and it speaks for itself.

PRESIDING OFFICER BAIN: That is a letter by this witness. I think he may testify about it. I will have to overrule the objection.

A. Yes.

BY MR. MILLER:

Q. And that permission is unqualified in that letter, is it not? A. No, it is qualified.

Q. Will you point out what the qualification is, Mr. Gilby? A. In all our discussions which Mr. Hopper and I had -- I am leading up to the answer -- I further insisted that they didn't have the privilege of looking at Chapin records. By records I meant the books of general entry and the entries that were necessary to make the final entry. Mr. Hopper knew that and it was on the basis of that understanding I said to Mr. Hopper, "Now, Mr. Hopper, if it will help things at all since we can stop you, if I have Mr.
738 Sparks volunteer to let you look at our records, the financial records, why, would that be satisfactory"? He said, "Mr. Gilby, that would be wonderful". This letter is after all that conversation and it is --

Q. (Interrupting) Now, with respect --

MR. MELNICOFF (interrupting): Have you finished your answer, Mr. Gilby?

THE WITNESS: I was going to read what the letter said in answer to his question.

MR. MELNICOFF: Finish.

THE WITNESS: May I read it?

PRESIDING OFFICER BAIN: If it is necessary to your answer, of course. It is already in the record, it is just repetition as far as the record is concerned.

THE WITNESS: I would have to refer, to state what was --

MR. MELNICOFF (interrupting): If he believes it is necessary to the answer he may read it.

PRESIDING OFFICER BAIN: That was the original question to point out.

MR. MELNICOFF: I take the Examiner's ruling to mean that you may read it referring to your letter of December 17, 1956, to me for reply.

THE WITNESS: "The contents of this letter I have already discussed with you in your office. First, please be advised that country points you

739 refer to are a part of the Midwest Order Buyers of Chapin, Illinois. This concern is not registered with the P & S. We maintain, and you already have agreed with us, that you are not entitled to ask for the production of these records. However, in our discussion you stated you would appreciate it if we could voluntarily show you these records. We presume if this is done we may benefit by constructive suggestion on your methods of handling this which is necessary and such suggestions we are always looking for".

BY MR. MILLER:

Q. I will repeat the question I asked you before, Mr. Gilby. Will you please point out what is the limitation set forth in that letter? A. This is to advise you that we are willing to make available to Mr. Smith these records to examine in the Chapin office.

Q. There was no limitation on records, is that correct? A. Well, as to what we call records, as to what you presumably say are records, yes.

Q. Well, now, may I see that letter, please?

In the last sentence of the first paragraph in this letter, "this is to advise you that we are willing to make available these records". Now, these records as used in those words "these records" as used in this letter refer to the records which Mr. Hopper requested permission to look at in his letter, do they not? A. Amended by conversations had subsequent to that with Mr. Hopper.

Q. In all the conversations? A. On the basis of which we gave him consent to do certain things.

Q. And all the conversations which you had with Mr. Hopper about which you have just testified were prior to your letter of January 14, 1957, is that correct? A. Yes.

Q. Then, Mr. Smith went to Chapin, did he not? A. He was engaged still in some other points and came to my office and finally went to Chapin.

Q. But then subsequent to that time he went to Chapin, did he not? A. Yes.

Q. And he was there three or four days, was he not? A. I think it was more than that but -- yes.

Q. Mr. McCoy was with him at that time? A. Not to my knowledge but I eventually found that there was a Mr. McCoy with Mr. Smith.

Q. And Mr. Smith resigned from the department, did he not, at about that time? A. I didn't know that he had resigned but I was told that he
741 was sent to Cincinnati. They had a matter in Cincinnati that they had to take care of so Mr. Smith was assigned to that.

Q. Mr. Smith left Chapin after three or four days or a week, did he not? A. It was a short time that he was at Chapin.

Q. Then after Smith left Mr. Sherman went to Chapin, did he not? A. Well, it was shortly after he left but at the time that he left he had completed his work so I was told in accordance with this letter.

Q. And you knew that Mr. Sherman and Mr. McCoy were auditing the books and records of Midwest Order Buyers of Chapin, did you not? A. So far as what they were doing, I evidently was not acquainted with what all they were doing.

Q. I didn't ask you if you knew exactly what they were doing. I asked if you knew that Mr. Sherman and Mr. McCoy were at Chapin looking at the books of Midwest Order Buyers. A. Yes, looking at the books.

Q. And Harry Sparks knew, did he not? A. Yes.

Q. And the people at Midwest Order Buyers of Chapin knew it, did they not?

742 MR. MELNICOFF: I object to that question and move the two

previous questions be stricken as to whether this witness knew what somebody else knew.

MR. MILLER: Well, of course, I objected yesterday when this witness, on the grounds that this witness had no personal knowledge and at that time, as I recall, counsel for respondents stated that this witness had made a thorough investigation of the matter and was able to testify with respect to what he learned in this investigation. I merely am asking questions which are directly related to the testimony which this witness gave on this point previously.

MR. MELNICOFF: Mr. Miller mistakes the crux of the objection. The crux is to whether this witness knows what somebody else knew. He didn't know what was in anybody else's mind.

PRESIDING OFFICER BAIN: You mean he can't testify as to what the people in the office, that he is familiar with, knew?

MR. MELNICOFF: Yes.

PRESIDING OFFICER BAIN: I don't believe the objection is good. It is proper on cross-examination. I will have to overrule the objection.

BY MR. MILLER:

Q. As a matter of fact, Mr. Gilby, did you answer the last question?

743 A. No.

Q. Let me ask you in a little different form, then, Mr. Gilby. As a matter of fact, at the time that Messrs. Sherman and McCoy were at Chapin you discussed this matter with Harry Sparks, did you not? A. As to what kind of discussion they were talking about? What discussion are you referring to?

Q. I am referring to any discussions which you had with Harry Sparks relative to the investigation being made by the Packers and Stockyards Branch of the operations of Midwest Order Buyers. A. I had no discussion with Harry Sparks at that time as to the results or what they were accomplishing or what they were trying to do.

Q. I didn't ask you about the results or what they were accomplishing or what they were trying to do. My question was whether or not you had any discussion with Harry Sparks relative to the fact that these persons were at Chapin investigating Midwest Order Buyers? A. I was informed by Mr. Harry L. Sparks that two men had arrived, yes.

Q. And Harry Sparks knew about it, did he not? A. Yes.

Q. And did he tell you who they were? A. Not at that time, later I found out who they were.

744 Q. As a matter of fact, Mr. Gilby, you knew -- strike that.

You knew what records they were looking at at Chapin, did you not? A. Evidently not because they produced material from other records than they were supposed to have.

Q. What did you think they were looking at?

MR. MELNICOFF: I object to that question. That goes to his mental process. What did he think was being looked at.

PRESIDING OFFICER BAIN: I think it is directly related.

MR. MILLER: I will withdraw the question, Mr. Examiner, and ask another one.

BY MR. MILLER:

Q. If you didn't know what records they were looking at, Mr. Gilby, what was the basis of your alleged protest to Mr. Hopper and Mr. Sands?

MR. MELNICOFF: I object to that, Mr. Examiner. That question there again is based upon misconstruction of the record. The record is he talked to Mr. Hopper before these people went in there. There is no evidence here that he talked to Mr. Sands.

MR. MILLER: I believe the record will show that this witness during the investigation protested to both Mr. Hopper and Mr. Sands.

745 PRESIDING OFFICER BAIN: I don't remember the development.

THE WITNESS: If you can point it out --

PRESIDING OFFICER BAIN (interrupting): We don't have the transcript.

MR. MILLER: That was his testimony according to my notes.

BY MR. MILLER:

Q. If you did testify that you made a protest, Mr. Gilby, would you like to correct that statement at this time? A. If I did -- I mean if it is found in the record I did.

Q. Would you like to correct that statement if it is found in the record? A. And if I correct the statement what are you expecting me to say?

Q. Is it your testimony now that during the time of the investigation by the Packers and Stockyards Branch at Chapin that you made no protest to either Mr. Hopper or Mr. Sands? A. I did.

Q. You did what? A. Make protest.

Q. That is exactly what I asked four or five questions, Mr. Gilby? A. That is the answer.

746 Q. You did not know what records they were looking at. If you didn't know, what was the basis of that protest? A. The basis of the protest was that I had learned they were going further than we had agreed, Mr. Hopper and I, that they should do.

Q. How did you know they were going further? A. I was informed that they were looking at things and digging up things -- let's put it this way. That I had not consented to let them do.

Q. What things were you informed that they were looking at? A. I was informed that they were visiting places looking at sales, they were going into the records beyond the records of Midwest Order Buyers, that the financial records that would --

Q. (Interrupting) What records? A. That would show that we were financially solvent and that was the statement that Mr. Smith made, "Thank goodness you are solvent" before he left.

Q. What records were you informed they were looking at? A. I was informed that they were looking at our sales, they were looking at document underneath the sales, specifically going into all of this data which was not the audit that we had arranged for.

747 Q. Now, about five minutes ago, Mr. Gilby, you testified that you did not know what records they were looking at. A. That's correct, I still didn't know what records but I knew some records that they were looking at they should not.

Q. There seems to be a few conflicting statements in your testimony, Mr. Gilby. I would like to start all over again. I would like to ask this question. At the time that Messrs. Sherman and McCoy were at Chapin did you know what records they were looking at in any respect whatsoever? A. I knew of some of the records they were looking at, yes.

Q. And you discussed this matter with Harry Sparks, too, did you not? A. I mentioned it to Harry Sparks.

Q. And as a matter of fact, during that time you made no protest to Mr. Sands, did you? A. I didn't know that Mr. Sands was a party involved. I did know that Mr. Hopper was --

Q. (Interrupting) Isn't it a fact that you never made any protest to Mr. Sands during the time that Messrs. Sherman and McCoy were at Chapin? A. Yes, as to what I made protest to, that is a different thing.

Q. You never had any conversation on this matter with Mr. Sands
748 until sometime after the investigation at Chapin was completed, isn't that a fact? A. Yes, I had before.

Q. When was that? A. At the time that that was discovered that there was an affidavit in being that I thought was improper.

Q. Was that affidavit you refer to the affidavit obtained from Mr. George Ischer? A. Yes, that was the one.

Q. You objected to that affidavit? A. I said they went beyond their scope in even asking for it and also the work involved in bringing that up was beyond their scope.

Q. You mean you objected to the fact that they had requested Mr. Ischer -- A. (Interrupting) Yes, I think that was improper. I think the taking of the affidavit was improper.

Q. Is that right? A. That's right.

Q. That is your opinion? A. That's correct.

Q. And that was the basis of your objection? A. Besides other things.

Q. Why did you feel it was improper?

MR. MELNICOFF: That is a why question. That is inquiring into
749 his mental process that is surely not proper on any examination, cross or direct.

MR. MILLER: He has expressed his opinion. I can ask him the reason for that opinion.

PRESIDING OFFICER BAIN: I think it is a proper question. The objection is overruled.

THE WITNESS: May I have the question, please, again?

PRESIDING OFFICER BAIN: Why did you think it was improper? A. I had already discussed the matter with Mr. Hopper on several occasions and I already had demanded the article back from Mr. Hopper. Then Mr. Hopper told me that he was out of the picture and that it was now being handled from the East St. Louis office, National Stockyards by Mr. Sands.

BY MR. MILLER:

Q. When you testified that you thought it was improper for the investigator of the department to question Mr. Ischer why did you think that was improper? A. Because he was not involved in this consent that we had given and discussed before we gave it.

Q. Do you mean to say that the department has to get consent before they can question anybody? A. In this case I am not talking about the Stockyards Act because we were working on the proposition that we were not subject, Midwest Order Buyers.

750 Q. Well, now, the investigation -- all authority of the Department of Agriculture under the Stockyards Act was not limited to persons subject to the Act.

MR. MELNICOFF: I object to that question. That calls for a legal conclusion and interpretation of the scope of the Packers and Stockyards Act and also the scope of their investigation not only under the Act but under the rules and regulations. That certainly is not a competent question to be addressed to the witness.

PRESIDING OFFICER BAIN: If that is not a competent question I don't -- I don't believe the objection is good. It is overruled.

MR. MILLER: I don't think there is any point in going into this matter further.

BY MR. MILLER:

Q. The alleged protest which you made to Mr. Sands was on the basis that you felt it was improper for them to question Mr. Ischer, is that correct? A. No, my protest to Mr. Sands was on the basis of obtaining the affidavit which was on the work that these gentlemen were doing beyond the scope of the permitted work according to this correspondence.

Q. Now, as nearly as you can recall, when did you make this alleged protest to Mr. Sands? A. Well, it was very shortly after the -- that I discovered that the affidavit existed.

751 Q. When did you discover that the affidavit existed? A. I just don't remember unless I refer to the date on the affidavit.

Q. The affidavit, I believe, is dated February 1, 1957. What I asked you was when did you discover that the affidavit had been given? A. I discovered it shortly after it had been given.

Q. Mr. Gilby, the Bushnell Stockyards and the Springfield Stockyards -- strike that.

The Bushnell Stockyards and the Peoria Stockyards come within the district which is supervised by Mr. Hopper, do they not? A. They did, yes.

Q. They still do, do they not? A. I don't know, I have been questioning that for sometime. They evidently have got a different man in this part of Illinois. No, I haven't allocated Mr. Hopper to those particular markets that you speak of.

Q. At the time of the investigation those two markets were under the jurisdiction of the district supervisor, Mr. Hopper, is that not correct? A. That is as I understood it.

Q. And Springfield and the Springfield Stockyards comes within the district supervised by Mr. Sands, is that not correct? A. To my
752 knowledge they were also Mr. Hopper's.

Q. Where do the annual reports from your operation at Springfield, where are they filed? A. The L.S.

Q. And the annual report forms for your operations at Springfield, where are they filed? A. I would have to look at the report but we send some reports direct to Kansas City by arrangement and if this happens to be filed with Mr. Sands I didn't have any particular reason to know.

Q. Now, you testified previously that you had prepared the annual reports for Mr. Sparks which are submitted pursuant to the requirements of the Packers and Stockyards Act? A. Yes.

Q. Is it not a fact, Mr. Gilby, that the reports of H. L. Sparks & Company of Bushnell and the annual reports of the H. L. Sparks & Company of Peoria are submitted to the district supervisor's office in Chicago? A. Yes.

Q. And is it also not true that the annual reports of H. L. Sparks & Company of Springfield, Illinois, are submitted to the district supervisor's office at National Stockyards, East St. Louis? A. Yes.

753 Q. And is it not also true that Chapin comes within, the Chapin, Illinois -- comes within, the district which is supervised by Mr. Sands? A. I would say it is not subject and we have never had that determined.

Q. You say that they are not subject but that was not the question. A. I don't know whether Chapin comes within Mr. Hopper's and Mr. Sands' jurisdiction. I have never had the occasion to look it up.

Q. Is Chapin south of Springfield? A. As far as I know it is directly across from Springfield, west.

MR. MELNICOFF: I beg your pardon, I think that this matter of jurisdiction, now, I think the Examiner should take judicial notice of the location of Chapin, Illinois, with respect to Springfield, Illinois.

PRESIDING OFFICER BAIN: For the present purposes the actual location is not the question. The question is where the witness thinks it is.

MR. MELNICOFF: I respectfully suggest, Mr. Examiner, that that is not the relevant issue herein, moreover I say that asking this witness to testify where the Department of Agriculture has and how the Department of Agriculture is divided up in the State of Illinois, for the purposes of administration the Stockyards Act certainly lies within their
754 knowledge and not within the knowledge of this particular witness or any other witness.

PRESIDING OFFICER BAIN: As I indicated the material question here is where the witness thinks it is. He has expressed an opinion about the jurisdiction. I think the question has already been answered, if I remember correctly.

MR. MILLER: We have an answer to the last question.

PRESIDING OFFICER BAIN: Can the reporter tell us if the last question was answered or not?

BY MR. MILLER:

Q. Yesterday, I believe it was, Mr. Gilby, you testified with respect to scales operated by Midwest Order Buyers at their country buying points and their testing thereof. Is it true that Midwest Order Buyers has a scale at each of these country buying points? A. Yes.

Q. And those scales are owned by Midwest Order Buyers? A. Yes, except it may be a leased property which already has the scale.

Q. And who operates those scales? A. Where it is leased I can't answer that, at each individual point who.

Q. In each case it would be an employee of Midwest Order Buyers, would it not? A. It may be a leased scale or something of that sort already manned by somebody else, I don't know of any scale -- 755

Q. (Interrupting) Which one? A. I don't know, I tell you there are leases that we have that probably the operation of any facilities on it comes under the fellow that operates the property from which we lease.

Q. You are referring to what might be a railroad loading out scale? A. Not necessarily.

Q. Do you mean to say that that is your actual country buying points where Midwest Order Buyers operates that they would have a leased scale? A. They may on some property that they leased and are occupying it as a part of the property for use.

Q. All the country buying points have employees of Midwest Order Buyers? A. I can't answer that.

Q. You don't know? A. I am of the opinion they are.

Q. You are of the opinion that in each instance the scales of the country buying points -- A. (Interrupting) There is an employee of Midwest Order Buyers.

* * * * *

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REDIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Gilby, would you refer to your Exhibits 4 through 12? Do you have them here, sir? Do you now have your exhibits before you, 4 through 12? A. I believe I have.

Q. Mr. Gilby, you were asked on cross-examination a series of questions concerning your testimony as disclosed by those exhibits in which you stated that the number of hogs alleged in Paragraph 4 of the

769 Order of Inquiry should be changed. Do you recall generally those questions? A. Yes.

Q. And illustrative of that group of questions was the inquiry made to you by Mr. Miller on cross-examination as to whether you sought to establish by your direct examination among other things that the number of hogs that were shipped to a particular packer, let's take Swift, the first one, do you recall that line of questioning generally? A. I believe I do.

Q. Specifically, as I recall it, if my memory serves me, he asked you whether or not on the first line of Paragraph 4 of the Order of Inquiry whether you sought to establish that more than 835 hogs were sent to Swift in that transaction. Do you recall those questions? A.Yes.

Q. Do you recall that you replied to him that you did not intend to establish that 1,185 hogs, which I believe you stated was the amended figure --

MR.MELNICOFF: Give me that question.

(Question read.)

BY MR. MELNICOFF:

Q. (Continuing) -- rather than 835 hogs went to Swift? That is on the invoice of December 10. Do you recall that answer? A. I do.

770 Q. Was your answer then and is your answer now that 835 hogs did in fact go to Swift, is that right? A. Yes.

Q. And it was your testimony on direct and on cross and is it your testimony now on redirect that the number of hogs that should be considered in that transaction is 1,185 and not 835, is that right? A. Yes.

Q. You say that an additional number of 350 hogs should be included for the purpose, is it true, of determining the number of hogs upon which the gain alleged in the last column of Page 3 in the Order of Inquiry should be aportioned? A. That is right.

Q. So that to make it crystal clear as to what your meaning was, do you divide 1,185, the number of hogs, into 2,310 in order to determine the average gain per hog, is that right? A. That is right.

Q. And that mathematical computation would give you a figure -- you tell me what the result would be. A. Approximately two pounds per hog.

Q. Per hog. Instead of the result which could be obtained if you were to divide 835 into 2,310, and what would that result be? A. What
771 date is this, December 10? It is a little under four pounds per head.

Q. I beg your pardon? A. A little under four pounds per head.

Q. Now, the same reasons that we have discussed up to this time would apply and do apply to all the transactions involved in the amended head count, is that right? A. Yes.

* * * * *

772 Q. The original buy figure, and let's take the second page of Exhibit No. 12 wherein appears on the bottom half of that short sheet the computations upon which you based your statement. You referred to a figure there as being a cost figure. Will you tell us what that is? A. I said that the figure in this column was not the cost.

PRESIDING OFFICER BAIN: That is the figure --

THE WITNESS: Under re-weigh", under "balance to Swift".

* * * * *

773 Q. In accomplishing, in pursuing accepted accountancy procedures, is it necessary in order to determine a question of the kind posed by Paragraph 4, is it necessary in those circumstances according to those accepted accountancy procedures to determine initially and basically and without doubt the cost figure involved, is that or is that not correct? A. In my opinion, correct.

Q. You must have such a cost figure, is that right? A. Yes, sir.

Q. On your Exhibit No. 12, the one which you have been talking about what represents the cost figure? A. This that is called the buy-weight figure insofar as country points concerned, and on this exhibit there's no posted market figures.

Q. Yes. So your cost figure, then, is the original weight of the original draft of hogs, is that right? A. Yes, should be.

Q. Pardon? A. Should be, yes.

Q. Out of which there were sorted certain animals which are not involved in this complaint, is that right? A. Yes.

774 Q. And out of which there were certain animals taken which are involved in this complaint? A. That is right.

Q. And is your testimony now and was it your testimony on direct and cross that in order to determine the correct cost basis of the hogs involved in this proceeding it was necessary to begin with the cost figure, is that right? A. That is right.

Q. And therefore, it was necessary and the cost figure, as you have stated, was the weight of the entire draft, is that true? A. Yes.

Q. And to the extent that any figure, derived figure does not take into account this original cost, that derived figure would be erroneous, is that right? A. Correct.

Q. And is it also true, Mr. Gilby, that it is that latter figure that the government has used in this case? A. Yes.

Q. Thank you. Mr. Gilby, you have stated -- this is a preliminary question, Mr. Examiner -- that your firm of certified public accountants and yourself as a certified public accountant perform the usual functions for the respondent and for Midwest Order Buyers that are generally performed by such persons as your firm and yourself, is that right? A.

775 Yes.

Q. In the performance of those duties, Mr. Gilby, is it true that you have a responsibility to your client, the person for whom you perform these duties, is that right? A. Yes.

Q. And is it also true, as the name indicates, that you have an obligation to the public? Is that true, you are a certified public accountant? A. Yes.

Q. Will you tell us very, very briefly what is the significance of the fact that a certified public accountant prepares a report and signs it with his name and official designation, what is the significance of that report to the public?

* * * * *

776 A. The public recognizes the fact that a signature with "C.P.A." after it means that that man is qualified and certified to do the work that he signs his name to and they recognize it as the proper answer, or statement, or whatever is rendered above that signature or at the end of that report or that certificate rendered.

BY MR. MELNICOFF:

Q. Now, Mr. Gilby, did you carry with you that obligation to the public and that understanding in all the work that you performed for the respondents and for Midwest Order Buyers? A. Well, I had a lot of accounting work that didn't mean the signing of a statement.

Q. I mean insofar as your work with their books and records were concerned and is concerned, are you cognizant and aware of that responsibility? A. Oh, yes, all the time.

777 Q. Specifically, now, Mr. Gilby, since you have testified that the cost figures, as we have gone over just a moment ago, in your work for this group, the respondents and the Midwest Order Buyers, did you find it necessary to consult their sales records? A. Yes, their record of sale.

Q. Would those invoice records be of significance to you in performing your duties for these persons I have mentioned? A. Will you ask that again?

Q. Would the invoice records be of significance to you in performing this work for these persons that I have mentioned? A. Yes, sir.

Q. In those circumstances, since you have testified how important it is to have a correct cost figure, would you say it is also important to have a correct sales figure, is that right? A. Yes.

PRESIDING OFFICER BAIN: You are speaking of weights now instead of dollars?

MR. MELNICOFF: Yes, of course, Mr. Examiner.

PRESIDING OFFICER BAIN: To me cost doesn't mean pounds, it means dollars.

MR. MELNICOFF: I'm glad you called my attention to it. We are speaking in terms of cost and sales and in dollars. I meant to include it in all my prior questions and all my subsequent questions. Thank you

778 very much.

BY MR. MELNICOFF:

Q. When you work with those invoice figures you were told that those were invoice figures based upon scale tickets, is that right? A. Yes.

Q. You were told, were you not, and there is testimony in this record to this effect and to this fact, that every invoice made and prepared by Midwest Order Buyers was based upon a scale ticket re-weigh, is that right? A. Not always re-weighed. If we used the original ticket.

Q. And the only time you used the original ticket is when there was a purchase from Midwest Order Buyers from a posted yard, is that right? A. No, we might use that in the purchase of a country point.

Q. That is right, but there was a re-weigh every time an invoice figure was determined, that is what you have been told, is that right? A. Yes.

Q. Having in mind your position and everything, would you have used that figure if you did not know it to be a fact? A. If I did not know it to be a fact?

Q. Would you have used that figure? A. No.

779 Q. If you had any doubt that the invoice figure, the figure that appeared in the invoice was anything other than a figure based on a re-weigh I described as you have, would you have used such a figure? A. No.

Q. And you state, then, Mr. Gilby, as a certified public accountant, certified for a good many years, is that right? A. Yes.

Q. Will you pledge not only your fitness and ability as a certified public accountant but reputation as well in support of that statement, is that right? A. Yes.

Q. Mr. Gilby, some doubt was expressed, and I might add justifiably so since it was cross-examination, as to the validity of the methods used by you in the preparation and use of Exhibits 4 to 12 concerning the addition of other hogs to the figures appearing in Paragraph 4. Do you recall that? A. Yes, in relation to the gain shown.

Q. Yes. I don't know whether I asked you this on direct, if I didn't I wish to ask it now. Were those procedures followed by you accepted accountancy procedures? A. Yes.

Q. This is something new that you thought might be helpful in this
780 case? A. No.

Q. It is based on sound and accepted accountancy procedures that should be and could be used by any accountant, is that right? A. Yes.

Q. And the books and records and the figures that you used to apply to this procedure, were they available as far as you know to the persons who conducted the investigation at Chapin, Illinois, upon which this Writ of Inquiry was issued? A. Yes.

Q. You consulted the same books and records, is that right? A. I don't know all the books I consulted, but I consulted the books that should be consulted.

Q. Then if you didn't consult them it was their omission, is that right? A. Yes.

Q. And to the extent that they did omit to consult the books and records, would you say now as a C.P.A. that they did not follow accepted accountancy procedures? A. In answer to the problem before us?

Q. Yes, I am sticking to the problem before us. A. Correct.

781 Q. Mr. Gilby, you were asked certain questions concerning certain scale tickets and so on and so forth which appeared in Paragraph 11 of the Order of Inquiry. Do you recall those? Specifically in Paragraph 8, do you recall those? A. Yes.

Q. Do you recall being shown a series of exhibits introduced by the government in connection with the allegations alleged there? A. Yes, I recall.

Q. Do you recall, too, that you testified with respect to these allegations and that you interpreted certain information appearing on either the scale tickets that were shown to us as government exhibits and also from scale tickets and other memoranda which you yourself had? A. Yes.

Q. Isn't it true that you were doing what a person in your position frequently does, you are interpreting records as you find them? A. Yes.

Q. You never intended to convey nor can you ever say that you had made any of those records to which you had testified? A. That is right.

Q. You never stated nor did you intend to state that you were

782 present when those records were made, is that true? A. That is right.

Q. And you were merely, or is it true that you were merely giving your formed interpretation of those records as you found them? A. Yes.

Q. And to the extent that that formed interpretation may not disclose all of the facts, that is a matter that stems from the fraility of the matter before you and not from a matter of intent on your part to convey anything other than the true story, is that true? A. Yes.

Q. Certain of those exhibits, and I am referring now to those in Paragraph 11-B, yes, concern what you have called, I believe, or what did you call those involved with price breakdown, is that the proper word to use? A. That is right.

Q. What did you mean by that? A. I meant certain hogs on that scale ticket were a different value hog than some of the rest of them.

Q. Was the number of hogs, total number of hogs involved, were they changed? A. No.

Q. Was the poundage in any way changed? A. Not to total poundage, no.

783 Q. What transaction did those scale tickets reflect to the certain entry date? A. The transaction reflected the fact that the memorandum was placed on the scale ticket so the invoice maker would know how much to charge out at twenty-five or twenty-five and a half, whatever was shown there.

Q. Was that to reflect the bargain struck between the seller and purchaser? A. Yes.

Q. After title passed? A. No, that is the original invoice.

Q. Yes. A. It is reflected on there.

Q. But it was to reflect-- A. Depends on who you say the title is passed to.

Q. Mr. Gilby, I appreciate that answer and frankly I don't know how best to describe it, but that is a legal question and I have used the same term, I can't elaborate. But essentially, and actually, substantially it was a transaction between the purchaser and seller reflecting a price? A. Yes.

Q. It did not effect the number of hogs involved? A. The total number, no.

Q. It didn't change the total poundage? A. No.

784 Q. What kind of hogs were those that were involved in those transactions? A. Regular hogs purchased on that market.

Q. Any particular kind of hogs as far as you know? A. Not that I recollect.

Q. Were the hogs that were involved of any particular category, were they of any particular classification as far as you know? A. On the price classification which enumerates probably from weight.

Q. Do you know any reason why the purchaser and seller would bargain on the basis of price? A. They would only bargain on the price that they were buying the hogs at and then the sale prices would result because of the kind of hog.

Q. Simply, were these hogs that the purchaser and seller felt for some reason or another were below grade or were not? A. No, it is a matter of price of every invoice that goes out. Regular practice.

Q. I believe you were asked something on cross-examination in connection with the sale of hogs by the Sparks posted yard entity to Midwest Order Buyers. Do you recall that line of inquiry generally? A. Yes.

785 Q. Some question was raised, as I recall it, as to the method in which payment was made. Do you recall that? A. Yes.

Q. Can you tell us now how payment was made by Midwest to the posted intity, posted yard intity? A. By check from Midwest.

Q. Is that shown on an invoice? A. That particular purchase from the posted market?

Q. Yes, I am referring to that. A. Yes.

Q. And that invoice, as you understand it, and as you know and as you have testified, was made pursuant to a scale ticket to a weigh-in, is that right? A. Yes.

Q. Now, some question was raised and some inquiry was made as to the fact that on the certain invoice there appears to be a stamp which, it was indicated, might show that H. L. Sparks or someone in his company was somehow involved in the payment. Will you explain that? A. If you are speaking about the stamp that asks for all remittances to be made to a certain point, yes.

Q. Yes. For example, let me show you Complainant's Exhibit 19. Do you see that notation on the bottom of the invoice? A. Yes.

786 Q. Will you explain that, please. A. When Heil Packing, who receives this invoice, makes out their check in payment, it is made to Midwest Order Buyers but it is addressed to an address which is shown here, H. L. Sparks & Company, National Stockyards, Illinois. It may be mailed to Midwest and then sent down to H. L. Sparks & Company, National Stockyards, Illinois. That is only an address, and when it is received there it is put in the Midwest bank account in St. Louis or East St. Louis, National Stockyards..

Q. The payee in the check in all cases was Midwest Order Buyer? A. Yes.

Q. What was the reason for requiring this sort of a dispostion of the check or handling of the check? A. I take it it was due to the fact that I counseled with Mr. H. L. Sparks that he shouldn't keep such a large amount of funds in the small country banks. Also, to hasten the receipt of this money so it could be used, and the payer was close to the St. Louis address.

MR. MELNICOFF: I guess that is all. Thank you, Mr. Gilby.

* * * * *

787 RECROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Gilby, I have just a couple of things that I would like to clear up. First of all, and I am not exactly sure that this is clear in the record, with respect to the December 10, 1955, transaction alleged in Paragraph 4 of the Order of Inquiry, you stated to Mr. Melnicoff that the number of hogs that should have been considered was 1,185 instead of 835. In other words, an additional 350 hogs. I want to make it clear that the additional 350 hogs to which you referred were not sold to Swift & Company, were they? A. No.

Q. Now, the second thing I would like to clear up, Mr. Gilby, is that you stated that you were told that every invoice figure was based upon an actual re-weigh of the hogs or an actual weight. A. Yes.

Q. Your next answer following that was that you knew it to be a fact that the invoice figure was based upon an actual weight. A. Yes.

Q. Now, Mr. Gilby, there is quite a hurdle between those two answers. How did you know it to be a fact that the invoice figure was based upon an actual weight? A. Because it reflected the report of these actual weights in the place where the item was shipped.

788 Q. In other words, it is your testimony that you were told it was an actual weight? A. No. I would say it was based on an actual report. I am not told through a report.

Q. You don't have any personal knowledge that these hogs were re-weighed, do you? A. Yes, I have.

Q. What personal knowledge do you have? A. Because of my interest in connection with my work.

Q. In other words, I get back to the same question I asked you before, your answer is based upon the fact that you were told they were actual re-weighs? A. No.

Q. Did you see the hogs weighed? A. Some places, yes.

Q. All the hogs involved in these transactions? A. No, I don't stay down to those points.

Q. Did you see any of the hogs involved in these transactions re-weighed? A. Yes.

Q. Which ones? A. I can't point them out here now.

Q. Mr. Gilby, you have stated on the stand that you knew it to be a fact that the invoice figure was based upon an actual weight figure and

789 all I want to know is how did you know it to be a fact. A. By reports that are sent in connection with the re-weigh.

Q. Only because of the reports that you received? A. Actual statements and reports that are sent to Chapin in connection with their accounting work.

Q. In other words, figures appearing in the records of Midwest Order Buyers, is that right? A. Yes.

Q. Now, the third thing, Mr. Gilby, is, and I will be frank to admit that I am completely confused on this now, you were asked several questions with respect to a transaction in which notations appeared upon a Sparks copy of a scale ticket whereby a division was made of the original number of hogs weighed. A. Yes, sir.

Q. Do you recall answering Mr. Melnicoff's questions on that transaction? A. Yes, I do.

Q. Now, in that transaction, if you recall, a certain number of hogs were weighed by the stockyard company at a certain weight. A. The total on the ticket.

Q. On the Sparks copy of the scale ticket the total number of hogs

790 originally weighed is broken down into two different numbers. A. Not two numbers but two amounts.

Q. And also two separate head counts totaling the original number, is that right? A. Yes, sir.

Q. And I am not sure that I understood you correctly, but I thought you said that that was done because the hogs were in different price brackets. A. That is right.

Q. And that was done as a result of negotiations or as a result of negotiations between Sparks and the ultimate buyer? A. That is the ordinary negotiations that go along with every sale. If they have hogs in that line that call for a different price than the rest of the hogs, then, it is marked accordingly so that the invoice maker can use the price to get the poundage shown.

Q. Well, in other words-- A. Automatically if you buy a certain weight of hog it takes a different price than another weight of hog, but the market shows a certain figure, then it will probably quote the different weights of hogs.

Q. Now, in this transaction that we are talking about 121 hogs were weighed to Sparks No. 4 and the 121 were broken down into lots of twenty-five and ninety-six. The lot of twenty-five was invoiced to Merkel Packing at twenty-five and a half per hundredweight and the ninety-six hogs were invoiced to Merkel at $26 per hundredweight. A. Yes, same buyer.

Q. Is it your testimony that after those hogs were weighed then the bargain was struck with Merkel Packing Company? A. No, the bargain has already been set and the price is placed on there and that is the accepted price.

Q. Who put the price on there? A. H. L. Sparks & Company.

Q. And when was-- A. If that is one of H. L. Sparks.

Q. And when was the price put on there? A. At the time the scale ticket came up and they had sold the hogs to Merkel.

Q. At the time the scale ticket came up to the Sparks office and they sold the hogs to Merkel, and it was at that time they made the division? A. Yes.

Q. You testified this morning that that twenty-five head count was put on there by the weigh master. A. The scale ticket is in our possession right away and that is where the material was placed by the weigh master on the ticket, yes.

792 Q. I don't quite follow your testimony, Mr. Gilby. At one point you agree that the information is put on the scale ticket when it gets up to the Sparks office and the next minute-- A. They are told. Pardon me. They are told the way those hogs are sold, it is with that point.

Q. Who is told that? A. H. L. Sparks & Company.

Q. Who is told to weigh the hogs, who is told? A. The invoicer.

Q. The invoice is made in the office of H. L. Sparks & Company in the Exchange Building? A. Yes. And usually, as a matter of practice, they are told to weigh the hogs the way they have been sold.

Q. Now, the invoice isn't made before the scale ticket. A. As a standard price for the different weights for the hogs on that invoice.

Q. The invoice isn't made before the scale ticket. A. No, but the invoice is made from the scale ticket.

Q. That is right. A. So in order to give the invoicer the information which shall be used in making the invoice it is memorized, or not memorized, but made a memorandum on that scale ticket on the retained copy of the Sparks scale ticket.

Q. Who makes the memorandum on the scale ticket? A. Maybe
793 H. L. Sparks or whoever attends to that scale ticket when it becomes ready for billing.

Q. Is it a regular practice, Mr. Gilby, to make notations on scale tickets like this by H. L. Sparks & Company? A. Yes, it is a regular practice. It doesn't make it part of the scale ticket, it simply makes it a part of the scale ticket to be handed to the invoicer so the proper price will be used.

Q. Then the invoicer used the information on the scale ticket to prepare the invoice? A. That is right.

* * * * *

794 MR. MELNICOFF: I will call Mr. Ischer, please.

GEORGE J. ISCHER

was called as a witness and, having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Please state your name. A. George J. Ischer, Jr.

Q. Where do you reside? A. No. 1 North Crescent Drive, Jacksonville, Illinois.

Q. By whom are you employed? A. Midwest Order Buyers.

Q. Were you employed by Midwest Order Buyers on or about February 1, 1957? A. Yes, sir.

Q. Were you employed by them sometime prior to that? A. Yes, sir.

Q. And are you employed by them now? A. Yes, sir.

Q. And that has been a continuous employment, I take it? A. Yes, sir.

Q. When did you begin there? A. January the 26th, 1946.

795 PRESIDING OFFICER BAIN: Just a minute, please. I don't know whether this should be mentioned but I guess it should. Did you intend to subpoena this witness?

MR. MELNICOFF: Yes, I intend to subpoena Mr. Ischer.

PRESIDING OFFICER BAIN: I haven't signed the subpoena.

MR. MELNICOFF: Excuse me, I thought you had.

BY MR. MELNICOFF:

Q. Mr. Ischer, you are here pursuant to a subpoena? A. Yes, I am.

Q. Was that subpoena served upon you prior to the time you took the stand? A. Yes, sir.

Q. And you appeared on the stand pursuant to a subpoena? A. Yes, sir.

Q. All the answers you gave to the questions heretofore given by you during your attendance here respond to that subpoena? A. Yes, sir.

Q. Now, before you were employed by Midwest Order Buyers, by whom were you employed? A. Prior to the Midwest Order Buyers, United States Navy.

Q. I gather that was a required employment? A. Yes, sir.

796 Q. That had to do with a little unpleasantness I take it, it was enforced? A. Yes.

Q. In short, you were in the navy during the war? A. Yes, sir.

Q. How long were you in the war? A. From October, 1943.

Q. Until? A. Until January, 1946.

Q. And shortly after your honorable discharge from the navy you became employed by Midwest Order Buyers? A. Yes, sir.

Q. In fairness I say to you honorably discharged. Were you honorably discharged from the service? A. Yes, sir, January the 6th.

Q. I was sure of that, that is why I said it, I wanted it to come from you.

Prior to entering the service, what was your employment? A. Prior to entering the service I was with Merchants Chemical Company in Chicago, Illinois.

Q. And I take it by now you have given us your principal employment of your adult life, is that right? A. Yes, sir.

797 Q. What has been your education and training, Mr. Ischer? A. I didn't quite finish high school, I got three and a half years of high school, and then I studied accounting work through LaSalle Extension School in Chicago for three years.

Q. And what has been the general nature of your work, excluding your service, of course? A. The general nature of my work has been accounting work.

Q. So you have been in the accountancy field, accounting work within the limits as you have described it during your entire adult life, excluding the course in the navy? A. Yes, sir.

Q. Well, tell us about the navy work. A. I was in the disbursing office in the navy working with the ships' crew and the payroll and officers' orders. It was all accounting and clerical work aboard my stint in the navy.

Q. And you performed the usual duties associated with those positions during your naval service, is that right? A. Yes, sir.

Q. Now, you say you came with Midwest Order Buyers in January of what year was that? A. 1946.

798 Q. And where were you employed physically, in what city, county, state? A. Chapin, Illinois.

Q. And what were your duties as such? A. At the time of January 26 I just went to the Midwest Order Buyers as a special assignment to help get the bookkeeping in order. They were about three months behind on their book work. It was just a temporary assignment at the time.

Q. That was in 1946? A. 1946.

Q. And you are still with them? A. Yes, sir.

* * * * *

804 Q. Now, you have testified you have been employed with the Midwest Order Buyers beginning in January, 1946, that it's been a continued employment, that you were brought there for the purpose initially of temporarily getting the books and records straightened out, which had

fallen to some disarray, as I understand. A. Yes, sir.

Q. And you have remained there ever since? A. Yes, sir.

Q. And as I recall, my last question before this coloque had to do with the nature of your duties since you undertook this temporary assignment some two or three years ago. A. After about four weeks I was offered the position there as bookkeeper for the Midwest Order Buyers.

Q. And have you continued at that position? A. I continued in that capacity until about the middle of 1949 or beginning of 1950.

Q. And then what happened? A. Then I took over the duties there as manager replacing the man that was doing those particular duties at the time.

Q. Having to do with the purchase and distribution of hogs, I take it? A. Yes, sir.

805 Q. Is that right? A. Yes, sir.

Q. Now, let me direct your attention to the latter part of 1956, the early part of 1957. What, if anything, occurred at that time in connection with an investigation by the Department of Agriculture? Did some investigators appear at that time there? A. Yes, sir. We had one investigator, a Mr. Smith came to the office.

Q. How long did he stay? A. He stayed about four days.

Q. And what did he do while he was there? A. Mr. Smith looked at the financial statement of the Midwest Order Buyers.

Q. And did he look at anything else as far as you know? A. He also looked at the records on the H. L. Sparks & Company of Bushnell, H. L. Sparks & Company of Peoria, and the H. L. Sparks & Company books of Springfield.

Q. He confined his inquiries and his examinations to those sets of books, did he? A. Yes, sir.

Q. Do you know whether or not he further restricted his inquiry in connection with those books, that is, what did he look at particularly in those books, if you know? A. I don't know what he looked at in particular.

806 Q. Can you give us any idea as to what he looked at? A. The main thing he was there to look at on those books was the financial statement for each entity as well as the Midwest Order Buyers financial statement.

Q. And then he was there -- did you tell us when he was there, I have forgotten. A. He was there sometime in January, I don't know the date, sir.

Q. January, 1957? A. Yes, sir.

Q. Then he left, I take it? A. He was there about four days.

Q. And he was succeeded by somebody else? A. Yes, sir.

Q. Who was that? A. To my knowledge it was a Mr. Sherman.

Q. Was Mr. McCoy there? A. Mr. McCoy came there after Mr. Sherman had arrived.

Q. And Mr. Sherman, when he arrived, I think you told us that was the latter part of January, '57, is that right? A. Yes, sir.

Q. And Mr. McCoy was there at the same time? A. Mr. McCoy came a day or so afterwards.

Q. I see. Now, when did you meet Mr. Sherman? Had you met
807 him before? A. No, sir.

Q. Did he present himself to you when he arrived there? A. He presented himself at the office.

Q. He introduced himself to you? A. Yes, sir.

Q. Showed his credentials? A. Yes, sir.

Q. And what did he ask you, if anything? A. He said that he was there to go over the books of the H. L. Sparks & Company of Bushnell, H. L. Sparks & Company of Peoria, and H. L. Sparks & Company of Springfield together with Midwest Order Buyers' books.

Q. Did you assign an office to him? A. We gave him a desk in the back office.

Q. Now, this was in Chapin, Illinois, was it not? A. Yes, sir.

Q. There is a two-story building where these events took place? A. Yes, sir.

Q. And that is in connection with a buying point, isn't it true, of Midwest Order Buyers? A. Yes, sir.

Q. Downstairs on the ground level there are certain stock pens
808 and shoots and a scale, a large platform scale, all associated with the purchase and sale of hogs, is that right? A. Yes, sir.

Q. And then upstairs, I understand, there's some office space? A. Two offices.

Q. There's a set of stairs, of course, leading up? A. Yes, sir.

Q. That is, stairs, and then there's a room on this side, is that right? A. Yes, sir.

Q. By this side, I mean on the left as you come in. A. Yes, sir.

Q. And there's another room to the right, is that right? A. Yes, sir.

Q. And your room is this room on the left,is that right? A. Yes, sir.

Q. Now, you assigned a desk to Mr. Sherman in the room to the right, is that true? A. Yes, sir.

Q. And who else was in that room with him? What was that room used for by Midwest Order Buyers? A. That is the room where all the
809 records, the majority of the records and the bookkeeping is kept.

Q. And there was -- A. Two desks.

Q. Two desks, and you assigned one of those desks to Mr. Sherman and Mr. McCoy? A. Yes, sir.

Q. Now, this room to the left here, how many desks are in that? A. Two desks in that room.

Q. From my recollection there is one desk here (indicating), is that right? A. Yes, sir.

Q. And there's another desk in about that position (indicating)? A. Yes, sir, about the same angle as the other one. No, the other way, turned around so the two corners were almost touching in the center.

Q. Sort of a V shape, is that right? A. Yes.

Q. Not a good V but that is the best I can do. This one here (indicating), the upper one in this non-perspective drawing, this is your desk, is that right? A. Yes, sir.

Q. And this desk over here (indicating), the other one, that desk is whose desk? A. Well, that desk is occupied by several people.

810 Q. Now, are there any telephones in this room, I mean this room to the left? We will call that the left room, the other one the right one. Any telephone in this room to the left? A. Yes, sir, there are four telephones.

Q. Why are there four telephones? A. We have two lines, two lines into the office and we have a phone on each one.

Q. Are there any phones in the right room? A. No, sir.

Q. All telephones are in here? A. Yes, sir.

Q. Now, did you have any conversations with Mr. Sherman from the time that he arrived, you say the latter part of January, 1957, during the course of these investigations there? A. Oh, from the time he arrived he told me he wanted to see Midwest Order Buyers' books. We showed the big work book, as we call it, as to how the information was gathered for these various invoices for getting our billing on our invoices.

Q. Did Mr. Sherman spend much of his time in this room, the left room? A. No, sir.

811 Do you know where he spent most of his time? A. Yes, sir. Quite a bit of it was spent down below.

Q. On the first floor? A. Yes, sir.

Q. That is where I think you told me you have the pens and the scales and the purchasing. A. The pens and scales are outside. Their scales are not in the office.

Q. In other words, there is an office room down here, too? A. The office room is under the left there.

Q. There is an office room here? A.Yes, sir.

Q. And who sits in that office? A. Well, that's the man downstairs that does the buying of the hogs, there's usually one or two of them there.

Q. And that's the room that they use in computation to the room that you use up there? A. Yes, sir.

Q. You say Mr. Sherman spent most of his time down here in this lower office? A. Yes, sir.

Q. A good deal of the time, anyway? A. Yes, sir.

812 Q. Do you know whether or not he spent any time observing the

weighing activities and so forth that were going on in connection with the purchasing and sale of hogs at Chapin? A. No, sir, I don't.

Q. Now, let me direct your attention, if I may, to February the 1st, 1957. A. Yes, sir.

Q. Do you recall whether or not you saw Mr. Sherman on that day? A. Oh, it was in the morning when Mr. Sherman got there.

Q. What time was that? A. I would say around 9:30.

Q. What time did he generally arrive at your office? A. Around 9, 9:30.

Q. Suppose you tell us what happened on February 1, 1957. A. Mr. Sherman went up to the right office and asked me to step in. He said he had to make a report to his boss to show that he had been up there at our place and working on our records.

Q. By that, you mean he came up the stairs and came into the room where you were? A. Into the other room.

Q. And you were in this right room? A. I was at my desk in the
813 front room. He asked to see me and told me what he wanted, and he wanted just a rough outline of my duties at Midwest Order Buyers.

Q. For what purpose? A. Just to make a report that he had been up there and talked to the manager and the work involved and the duties connected with the position there with Midwest Order Buyers. He had to make a report to his superior that he had been up there.

Q. Was that all he said to you, you are certain that that is all he said to you at that time? A. He asked my full name.

Q. At that time that is all he said to you? A. Yes, sir.

Q. And then you were in this room on the right, is that right? A. I was in the room on the right at that time.

Q. Tell us what happened after that. A. Well, I told him it would be all right to give him a report that he was there. I went back to my own office because I had other phone calls and things to take care of in the meantime.

Q. Go ahead. A. And as soon as they were not so pressing I went back in the office and the questions he asked me I started answering.

814 Q. Now, at the time he asked you questions you say you were in this right room, is that right? A. Yes, sir.

Q. And he was sitting at his desk, was he? A. Yes, sir.

Q. Were you standing or sitting at that time? A. I was standing.

Q. In your presence did Mr. Sherman make any record of your conversation? A. He was making notes.

Q. Did you observe on what he was making his notes? A. I observed on that yellow paper.

Q. Mr. Ischer, I show you what has been introduced in evidence as Respondent's Exhibit No. 1. This is a thermofax copy, as you see. Does that resemble in any way physically the notes that you saw Mr. Sherman prepare the morning of February 1, 1957, in Chapin, Illinois, while you were talking to him? A. I noticed some of these notes, I didn't notice him writing all of them.

Q. But the piece of paper, is that the paper, or do you recognize that as a copy of the paper on which he made those notes? A. I know this paper isn't the copy of it.

815 Q. What kind of paper did he make that note on? A. It looked to me on yellow paper.

Q. Merely for purposes of comparison --

MR.MILLER: May the Examiner please, maybe I can shorten this up.

Mr. Melnicoff, since you introduced a copy into evidence the other day I have found the original notes which Mr. Sherman made at Chapin.

MR. MELNICOFF: May I have it, please?

MR. MILLER: The pages are not in correct order.

MR. MELNICOFF: May we have a moment while Mr. Miller gets them in the correct order?

MR. MILLER: I will now take the staple out of them.

MR. MELNICOFF: Mr. Examiner, may I have marked for identification as Respondent's Exhibit No. 1-A these three sheets of paper which have just been handed to me which Mr. Miller -- 1-A, pardon me, I believe a copy of that is already in evidence.

PRESIDING OFFICER BAIN: I will mark it Respondent's Exhibit 1-A. From the conversation, I gather this is an original of what Respondent's Exhibit 1 is.

MR. MELNICOFF: Yes, sir, that is the statement. We are going to examine it.

(Thereupon the document above referred to was marked for identification as Respondent's Exhibit No. 1-A.)

816 BY MR. MELNICOFF:

Q. Mr. Ischer, I now hand you what I have been given a moment ago by Mr. Miller, three sheets of paper which have been given to me as the original notes made by Mr. Sherman at the time of this conversation. Do you recognize Respondent's Exhibit No. 1-A? A. Yes, sir, I do.

Q. Do you now say that those are the original notes that were made by Mr. Sherman at the time that he had this conversation with you? Is that the kind of paper, do you recognize the paper? A. Yes, sir.

Q. Now, those notes were made in the course of your conversation with Mr. Sherman over a period of time, is that right? A. Yes, sir, they were prepared in the morning.

Q. Suppose you describe just what happened during that morning. A. Well, he talked to me and secured my name and address and that I was manager of Midwest Order Buyers. He asked me my duties and how we get our information at each point talks to Chapin. And he said he had to have this prepared in form to send in to the superior to show he was up here.

817 Q. Was this one long continuous interview? A. No, sir, it was in several times.

Q. Why was it broken up? A. Due to interruptions on the telephone in the other office, talking to various points and various boys up and down the circuit.

Q. While you were talking to Mr. Sherman in the right room the phone would ring and you would answer it, and you would then return to his room? A. Yes, sir.

Q. And I take it there came a time when the interview was concluded, is that right? A. Yes, sir.

Q. What did you do then? A. Well, after telling some of the articles already I would think of something else and tell him to make an addition.

Q. When you finally told him everything that you thought he should be told, or rather when he concluded the interview, you went back to your room, is that right? A. Yes, sir.

Q. And you took up and continued to perform your usual duties? A. Yes, sir.

Q. When did you next see Mr. Sherman in connection with the interview? A. I didn't see Mr. Sherman in connection with that until he came in and said he had it ready for me to sign. 818

Q. When was that? A. It was after 12:10 or 12:15, at noon.

Q. It was after 12:10 or 12:15. What was the other matter? How close to 1 o'clock, or was it? A. It was prior to 1, I would say prior to quarter until 1.

Q. What is your best recollection? A. It would be between 12:15 and 12:45.

Q. That is when Mr. Sherman came to you? A. Yes, sir.

Q. Tell us what happened there, in your own words, just exactly what happened. A. Mr. Sherman said he had the paper prepared for me to sign. I said, "Well, I'm not going to sign anything until I read it to Mr. Sparks and see what he says about it." So I got Mr. Sparks on the phone and I started reading to Mr. Sparks. In the meantime I was interrupted by another phone call and I gave it to Mr. Sherman to continue reading to Mr. Sparks. I concluded my telephone call, he concluded with Mr. Sparks and he said Sparks wanted to talk to me again. I took the phone from Mr. Sherman and Mr. Sparks said, "I can't see anything wrong in there. It's everything the way we operate our business and the way we do business." He says, "I can't see any harm in signing it."

819 Q. Then what happened? A. I went back talking about hogs. He says, "Let's forget about that now, let's talk about the hogs. What does it look like? What does the run look like today? About how many hogs

are we going to receive? What does it look like we are going to get?" At that conclusion again it was suggested it had to be O.K.'d to sign this bill.

Q. Now, at the time that you called Mr. Sparks did you or did you not have anything in your hand by way of notes or papers which you wished to discuss with Mr. Sparks? A. At the time I was ready to call Mr. Sparks this is what was handed to me to read.

Q. By this, you mean Respondent's Exhibit No. 1-A for identification? A. Yes, sir.

Q. That was handed to you to read? A. That was handed to me to read.

Q. And it is that which you began to read to Mr. Sparks, is that right? A. Yes, sir.

Q. How far did you get in that reading? A. I got down here to my calls to the various points.

Q. And at that time you say the phone rang and you were called
820 to answer the phone, is that right? A. Just a second, now. I got down here to the banking being done at Chapin.

Q. Then the phone call interrupted? A. Yes, sir.

Q. And that's the time you say -- what did you do then, hand it over to Mr. Sherman? A. That's when Mr. Sherman took over and read to Mr. Sparks.

Q. Did you hear what he read to Mr. Sparks? A. No, sir, because I was talking on the other phone and the two phones are situated alongside of my desk. He was standing behind me on one and I was sitting down talking on the other.

Q. At the conclusion of that telephone conversation with Mr. Sparks, as you have indicated, did Mr. Sherman give you anything to sign? A. Not right away, no, sir.

Q. What did he do then? A. Mr. Sparks told me it was O.K. to sign it and he held the paper in his hand, not this paper, held the paper in his hand and told me that I was to raise my hand, it was in the form of an affidavit.

Q. I herewith hand you Complainant's Exhibit No. 42 and ask you to examine that and tell me whether or not that's the piece of paper

821 that Mr. Sherman asked you to sign. A. Yes, sir. That's the piece of paper I signed.

Q. I see. Now, will you describe the circumstances attendant upon the signing of that document? A. I didn't get to see this document until -- this was the document I saw and I suggested those changes. I didn't get to see this document here until I had signed this page down here.

Q. And -- A. Then I did not read it. I had to raise my hand and Mr. Sherman started reading it to me.

Q. And what did he read to you? A. About my name being George Ischer, general manager of Midwest Order Buyers, and I resided at No. 1 North Crescent Drive, Jacksonville, Illinois. As general manager I make all the bills or invoices which are sent to the various buyers. These invoices show the number of head, and weight, and price, and the amount of each price category. These weights shown on the invoice are sometimes re-weigh weight and sometimes they are original buy weights. That is all I can remember hearing because I don't remember this billing, Hunter Packing Company.

Q. Do you now say -- A. Then when we buy hogs from the farmers we also give good honest weights, our scales are accurate and have springs,

822 balancers, indicaters. We invite the farmers to watch us weigh their hogs. Our scales are tested by the State of Illinois. We do not send scale tickets with our invoices unless requested to do so by the packer.

Q. And -- A. And I report to Mr. Parks, National Stockyards, several times a day. I stated that I made all the bills or invoices. Actually I or my assistants make them. I don't always do it personally. On occasions we have hogs that show a big loss in weight from the buy weights and we stand these losses when we bill the buyer.

Q. And that is all of the affidavit that was read to you by Mr. Sherman, is that correct? A. Yes, sir.

Q. And that was the only reading of hearing of that you had before you signed it? A. Yes, sir.

Q. And -- A. He asked me at that time if that was right. I said it sounded all right to me, it sounded like what I told him.

Q. And you are referring to what you heard him read? A. Yes, sir.

Q. Who drew this "X" down here? A. Mr. Sherman drew this "X".

Q. Then you signed that? A. Yes, sir.

823 Q. After hearing the reading given it by Mr. Sherman? A. Yes.

Q. You did not read it yourself? A. No, sir.

Q. Were you given an opportunity to read it? A. I was given an opportunity after I signed it.

Q. Before you signed it? A. No, sir.

Q. Were you given an opportunity to read the notes, Respondent's Exhibit No. 1-A for identification, that Mr. Sherman prepared? A. Yes, sir. I read some of these.

Q. But you didn't read them all? A. No, sir. I read some of these because I have had different additions put in here because they weren't true the way they were written. And they don't show on this photostatic copy.

Q. And what -- A. Those changes do not show on this photostat. See this ten points right here (indicating)?

Q. And -- A. And over on this end by railroad.

MR. MELNICOFF: That is the reason why I knew that there existed certain differences. For that reason I request permission to withdraw

824 Exhibit No. 1 and substitute in place thereof Exhibit 1-A. I will make additional copies. As you can see, there appears on 1-A, for example, close to the bottom, a pen indentation.

THE WITNESS: There is a pen indentation there that does not appear there. I knew there was some change or corrections I made as I read that.

MR. MILLER: I have no objection if you can get a thermofax copy.

MR. MELNICOFF: Some other reproduction process that will accurately reproduce the document.

PRESIDING OFFICER BAIN: I don't see why we should withdraw the present Respondent's Exhibit 1.

Is there any objection to 1-A?

MR. MILLER: No, sir.

PRESIDING OFFICER BAIN: It is admitted.

(Thereupon the document heretofore marked as Respondent's Exhibit No. 1-A was received in evidence.)

MR. MILLER: I would like to point out for the record that this particular thermofax will not take ink.

MR. MELNICOFF: There was no desire to mislead the record due to mechanical fault. I believe that's -- pardon me just a moment.

That's all, Mr. Examiner.

You may cross-examine.

* * * * *

827 Thursday, April 23, 1959

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828 CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Ischer, the subpoena which we were discussing yesterday was served on you by Mr. Melnicoff, is that not correct? A. Yes, sir.

Q. Now, you testified yesterday, Mr. Ischer, with respect to Mr. Smith coming to Chapin. Do you recall that? A. Yes, sir.

Q. And I believe you stated he came to Chapin sometime in the latter part of January '57? A. Yes, sir.

829 Q. Was that for about four days? A. Yes, sir.

Q. Incidentally, Mr. McCoy came to Chapin with Mr. Smith, did he not? A. No, sir.

Q. When did Mr. McCoy come to Chapin according to your testimony? A. According to my testimony after Mr. Sherman.

Q. How long after Mr. Sherman? A. About a couple of days.

Q. About a couple of days? A. Yes, sir.

* * * * *

831 BY MR. MILLER:

Q. Mr. Ischer, I have before me a letter addressed to me which

reads as follows: "During the hearing I believe it was agreed that I was to notify you of the date I first went to Chapin, Illinois, to work on the Sparks audit. I have checked my records and the date that I started work there with Mr. Smith was January 23, 1957." That is signed R. G. McCoy, auditor, Packers and Stockyards Branch and the letter is dated April 20, 1959. In the light of that information which we received from Mr. McCoy, Mr. Ischer, do you still state Mr. McCoy did not arrive at Chapin until two or three days after Mr. Sherman arrived there? A. He might have been. Mr.
832 Smith was the only man I have met there during the three or four day tenure with Mr. Smith.

Q. Is it now your testimony you don't recall when Mr. McCoy came there? A. I still say Mr. McCoy came there about two days or so after Mr. Sherman.

Q. All right. Well, now, getting back to Mr. Smith's work at Chapin, you stated yesterday that you showed him and he looked at records of H. L. Sparks & Company of Bushnell? A. Yes, sir.

Q. And the records of H. L. Sparks & Company of Peoria? A. Yes, sir.

Q. And the records at Springfield? A. Yes, sir.

Q. And the records of Midwest Order Buyers? A. Not the records, the financial statement.

Q. Of Midwest Order Buyers? A. Yes, sir.

Q. What records of H. L. Sparks & Company of Bushnell did Mr. Smith examine at Chapin? A. The financial statement, the general ledger.

Q. The financial statement and ledger of Bushnell is maintained at Chapin, is that correct? A. Yes, sir.

833 Q. Is that true also with respect to the financial statement and general ledger of H. L. Sparks & Company of Peoria and H. L. Sparks Company of Springfield? A. Yes, sir.

Q. Now, you further stated, Mr. Ischer, that when Mr. Sherman arrived at Chapin you showed him and he looked at the records of H. L. Sparks & Company of Bushnell, H. L. Sparks of Peoria and H. L. Sparks of Springfield. Were those the same records? A. Yes, sir.

Q. As Mr. Smith looked at? A. Yes, sir.

Q. You also stated that you showed Mr. Sherman and he looked at a Midwest Order Buyers' work book, I believe he called it? A. Yes, sir.

Q. And you stated that that is the book that is used to prepare invoices to packers? A. Yes, sir.

Q. In other words, invoices to packers are made up according to the data appearing in the work book, is that correct? A. Yes, sir.

Q. Now, that work book sets forth the purchases by Midwest Order Buyers of hogs of various country points, does it not? A. Yes, sir.

Q. And it shows for each lot purchased at the country points, the
834 head, the weight and the cost? A. Yes, sir.

Q. And that work book also sets forth information with respect to hogs obtained by Midwest Order Buyers from Springfield Stockyards, Peoria Stockyards and Bushnell? A. No, sir.

Q. It does not? A. No, sir.

Q. On hogs that are obtained by Midwest Order Buyers from Springfield, Mr. Ischer, where is that data recorded? A. We don't receive any orders from Midwest Order Buyers at Springfield or Bushnell at Peoria.

Q. Well, do you receive any hogs from H. L. Sparks at Springfield? A. Yes, sir, we do.

Q. That is what I was referring to, I didn't mean purchasing hogs from stockyards. A. To straighten that out, we don't have Midwest Order Buyers at that point.

Q. I see your point and I think it is a matter of terminology. Now, the work book you are talking about, then, in addition to containing information with respect to hogs which you obtained at your country points also
835 contains similar information with respect to hogs you obtained from H. L. Sparks & Company of Springfield, is that correct? A. Yes, sir.

Q. At the Springfield Stockyards? A. Yes, sir.

Q. And it contains similar information as to hogs Midwest Order Buyers obtains from H. L. Sparks & Company of Peoria? A. Yes, sir.

Q. And it contains similar information with respect to hogs obtained by Midwest Order Buyers of H. L. Sparks & Company of Bushnell? A. Yes, sir.

Q. And that information sets forth each lot, the head count, weight and cost? A. Yes, sir.

Q. That book also shows, does it not, Mr. Ischer, which packer the particular hogs go to? A. Yes, sir.

Q. And that is your responsibility, is it not, to determine where the particular hogs go? A. Yes, sir.

Q. Now, to go back to the information you obtained from H. L.
Sparks & Company of Springfield, Peoria and Bushnell and various
836 country points, the information which is put in the work book, how
do you obtain that information? A. By telephone.

Q. Do each of these places telephone you each day and give you the information? A. Yes, sir.

* * * * *

837 Q. I believe you stated, Mr. Ischer, that the various places where you obtained hogs in one day over the telephone call and give you the information concerning purchases, the weights and prices, is that correct? A. Yes, sir.

Q. Now, how do you determine where those particular hogs go? A. Through Mr. H. L. Sparks.

Q. Do you talk to him each day with respect to the orders he has received for hogs?

MR. MELNICOFF: Mr. Examiner, I wish to interpose an objection there, that is beyond your ruling to straighten out the records. This has to do with testimony as to the sales and his disposition practices which is again beyond this witness' examination that we offered yesterday. He may be called again in which case these questions can be asked.

PRESIDING OFFICER BAIN: What part of the direct does that relate to?

MR. MILLER: Well, I can come to it later, Mr. Examiner, because
it relates specifically to a statement which is contained in the notice Mr.
Sherman has made and marked for identification purposes as Respondent's
Exhibit 1-A. I can come back to it when I examine on that particular
838 document.

PRESIDING OFFICER BAIN: In view of the objection suppose we postpone it.

BY MR.MILLER:

Q. In any event, Mr. Ischer, the work book which you have described is the work book you showed to Mr. Sherman while Mr. Sherman worked at Chapin, is that not correct? A. Yes, sir.

Q. Now, Mr. Ischer, I am referring to the notes which Mr. Sherman made at Chapin during the time that he had an interview with you and these are the notes which were marked for identification yesterday as Respondents' Exhibit 1-A. Do you recall the note I am referring to? A. Yes, sir.

MR. MILLER: Mr. Melnicoff, do you wish to give Mr. Ischer a copy of those notes?

MR. MELNICOFF: Mr. Examiner, yes, I have here marked as Respondents 1 which is a Thermofax copy of Respondents' Exhibit 1-A, however, it was agreed Exhibit 1 does not faithfully reproduce Respondents' Exhibit 1-A for the reason indicated, it is the fault of the reproducing procedure and nothing else, and Mr. Examiner, am I correct in my understanding that Respondents' Exhibit 1-A is in evidence?

839 PRESIDING OFFICER BAIN: Yes, sir.

MR. MELNICOFF: I have no objection, of course, to Mr. Ischer having Respondents' Exhibit 1 but I believe it is not an exact copy due to the fault of reproducing procedure. There are some certain delineations which appear on 1-A which are not on 1.

MR. MILLER: Of course, one delineation which did not show up on the Thermofax copy, in the event I question Mr. Ischer with respect to these I will give him the original.

MR. MELNICOFF: I didn't want the record to show that he had a copy when he has the original, due to no one's fault.

BY MR. MILLER:

Q. Mr. Ischer, I would like to direct a few questions toward the circumstances under which these notes were made. According to the notes I made yesterday while you were testifying there appears to be some conflicting statements in the record. As I understand it, on the morning of February 1, 1957, you and Mr. Sherman had a general discussion about your operations at Chapin, is that correct? A. Yes, sir.

Q. And Mr. Sherman asked you questions and you answered questions, is that correct? A. Yes, sir.

Q. And on the basis of the information which you gave Mr. Sher-
840 man and on the basis of your answers to questions asked by Mr.
Sherman, Mr. Sherman in your presence wrote these notices, is that
correct? A. Not in my presence.

Q. I am talking about notes, now, Mr. Ischer, not the signed statement. A. Yes, sir.

Q. I thought you testified yesterday Mr. Sherman made these notes? A. I testified yesterday Mr. Sherman talked to me about methods of operation and I told him what they were and he would go ahead and write some things down. I didn't dictate this to him, if that is what you mean.

Q. I didn't mean to imply Mr. Sherman's notes are a verbatim copy of your words. Is it not a fact while you and Mr. Sherman were talking he made these notes? A. He was writing something.

Q. And he was doing that while you and he were conversing and while he was asking you questions and you were answering questions, is that not correct? A. I would answer a question then if I had a telephone call he would continue writing or elaborating on some of the questions that he asked me.

Q. And that was done in your office? A. No, sir, that was done in the other office, the diagram on the board.

841 Q. The notes were made in the office across from your office? A. Yes, sir.

Q. And who shared that office with Mr. Sherman while he was working there? A. Mr. Hazelrigg, I believe, was downstairs.

Q. As a matter of fact, Mr. McCoy shared the office while they were working there, did he not? A. Same desk.

Q. And Mr. McCoy was in the office across the hall from your office in February of 1957? A. Yes, sir.

Q. And is it your testimony that at the time Mr. Sherman was interviewing you and making these notes he was doing it in the office where he and Mr. McCoy worked? A. Yes, sir, the back office.

Q. And it is your testimony that Mr. McCoy was there when these notes were being written? A. I didn't testify he was there.

Q. I am asking you, was he? A. I don't know.

Q. Isn't it a fact, Mr. Ischer, that Mr. McCoy was not there when these notes were being made in your office? A. No, sir.

842 Q. Now, after Mr. Sherman completed writing these notes he gave them to you to read, did he not? A. Yes, sir.

Q. And you read them? A. I read the notes and that is the reason I had some changes made and I did not read them all the way through as to other changes made.

Q. There had been other changes ? A. There would have been other changes.

Q. You didn't read them all the way through, that is your testimony? A. Yes, sir.

Q. And then you recall Mr. Sparks and you discussed the notes? A. Yes, sir.

Q. And you read them to him? A. At a certain point.

Q. And then what happened? A. I had a telephone call while talking to Mr. Sparks and gave the notes to Mr. Sherman and Mr. Sherman completed reading the notes to Mr. Sparks while I was on the phone.

Q. Mr. Sherman completed reading the notes? A. Yes, sir.

Q. Did you complete the phone conversation? A. Yes, sir. Mr. Sherman told me Mr. Sparks wanted to talk to me and when he talked to me Mr. Sparks told me at that time "I can't see any harm in signing the

843 notes, there is nothing in there that is different from what we do."

Q. Now, after that conversation with Mr. Sparks Mr. Sherman told you, did he not, that he was going to write up a statement based on those notes? A. No, sir, after talking to Mr. Sparks, Mr. Sherman had the statement already written because he didn't leave the office then.

Q. Well, I don't quite understand that, Mr. Ischer, that doesn't make sense to me. Mr. Sherman made these notes which are Respondents' Exhibit 1-A and gave them to you to read and you read them to Mr. Sparks, at least you read part of them and Mr. Sherman read the rest to Mr. Sparks and you completed the conversation. Is it your testimony Mr. Sherman by that time had the statement which you signed already written up? A. Yes, sir.

Q. Where did you sign this statement? A. In my office, in the left office according to the diagram on the board.

Q. Isn't it a fact you actually signed that statement in the office across the hall from your office? A. No, sir.

Q. Isn't it a fact, Mr. Ischer, that Mr. Robert McCoy was present when you signed that statement? A. Yes, sir. 844

Q. Isn't it a fact he was present prior to the time you signed the statement while you were discussing the same with Mr. Sherman? A. He was present while Mr. Sherman read me the statement.

Q. In which office was this? A. In the front office, in my office.

Q. It is your testimony Mr. McCoy was present at the time you signed this statement and also present at the time Mr. Sherman read the statement to you? A. Yes, sir.

Q. Isn't it also true nobody else was present at that time? A. Yes, sir.

Q. Now, I want to ask you a series of question, Mr. Ischer, and I want you to think about the questions before you answer them. And I want you to take all the time you need to answer the questions.

Is it not true, Mr. Ischer, that prior to signing this statement and in the presence of Robert McCoy, Mr. Sherman read to you the entire statement which you eventually signed and which is Complainant's Exhibit No. 42? A. He read me the statement with my hand raised as an affidavit to sign. 845

Q. Is it not true he read to you the entire statement? A. Not after seeing the affidavit he did not.

Q. It is your testimony in the presence of Mr. McCoy he did not read you the entire statement? A. Yes, sir.

Q. I will ask you this question, Mr. Ischer. Is it not true that in the presence of Robert McCoy, you mentioned Mr. Sherman read this statement, that the Hunter transaction referred to in the statement had not been included in the notes Mr. Sherman made? A. No, sir.

Q. Is it not true in the presence of Mr. McCoy, Mr. Robert McCoy, you and Mr. Sherman discussed the Hunter transaction of March 7, 1956? A. On that date?

Q. On that date and before you signed. A. November 1st.

Q. And on that date and before you signed the statement? A. No, sir, not on that date.

Q. Is it not true, Mr. Ischer, in the presence of Robert McCoy, Mr. Sherman told you before you signed the statement on February 1, 1957, that the Hunter transaction had been included in that statement as an example of what you had been talking about when Mr. Sherman made the
846 notes? A. No, sir.

Q. Is it not true, Mr. Ischer, that in the presence of R. G. McCoy you not only were given the opportunity by Mr. Sherman to read this statement before you signed it but you actually read the statement before you signed it? A. No, sir, I read the notes.

Q. Is it your testimony here under oath, Mr. Ischer, that before you signed this statement you were not given the opportunity to read the statement and by this statement I am referring to the one you signed the one in evidence as Complainant's Exhibit 42? A. I read the notes and had the statement read to me.

Q. I am not talking about the notes, I am talking about the statement which you subsequently signed. Is it your testimony here on the stand today that you were not given the opportunity to read that statement before you signed it? A. No, sir, I didn't see the statement before I signed it.

Q. I didn't say that, I said is it your testimony here today that you were not given the opportunity to read the statement before you signed it? A. Yes, sir.

Q. You were not given the opportunity, is that your testimony? A.
847 Yes, sir.

Q. And it is also your testimony that you did not read the statement before you signed it? A. No, sir.

Q. No, sir, what? A. I did not read the statement.

Q. Do you recall the last paragraph of that statement, Mr. Ischer? If you don't recall it there is a copy on the table there (indicating) in which it says, the last paragraph of that statement, Mr. Ischer, qualifies a statement previously made in the statement for the circumstances leading to -- what are the circumstances leading to that last paragraph?

MR. MELNICOFF: I move that the first part of that question be stricken insofar as it says the last paragraph qualifies something else. The exhibit speaks for itself. I don't think the witness is required to answer the question in that context.

MR. MILLER: I will rephrase the question.

BY MR. MILLER:

Q. What were the circumstances leading to the inclusion of the last paragraph of the statement? A. The circumstances leading to that, that is the way we do our business and I failed to tell Mr. Sherman earlier that on several occasions we do bill the hogs with the weight off of them.

848 Q. Isn't it a fact you read the statement and you noted the statement appearing therein which said "As general manager I make all the buys on invoices which are sent to the various buyers?" A. Yes, sir.

Q. And after reading the statement you then informed Mr. Sherman -- A. (Interrupting) No, sir, you will find that in the notes there.

Q. We are not talking about the notes, Mr. Ischer, we are talking about the statement you signed. A. I didn't read the statement, sir.

Q. Why does the last paragraph appear in the statement?

MR. MELNICOFF: Objection, he didn't prepare the statement and he can't be asked why, he can only testify to the facts. Now, he is asking him to testify why.

PRESIDING OFFICER BAIN: The objection is overruled, it is proper cross.

MR. MELNICOFF: Mr. Examiner, I again ask you to reconsider. The context of the question he is asking this witness to tell why Mr. Sherman included that last paragraph. Now, how can this witness know why Mr. Sherman did something?

PRESIDING OFFICER BAIN: I think the question was why it appears there.

MR. MELNICOFF: Do I understand you do not take my motion to
849 reconsider?

PRESIDING OFFICER BAIN: No, I don't think the objection is good. It is overruled.

MR. MELNICOFF: Very well.

BY MR. MILLER:

Q. Will you answer the question, please? Why does that last paragraph appear in the statement?

MR. MELNICOFF: That is a different question, why does that last paragraph appear in the statement. This witness couldn't know why it appears there.

PRESIDING OFFICER BAIN: If he doesn't know he can say so.

A. That last paragraph appears in the statement due to my requesting back and forth between phone calls, when I thought of something I would go back and make another remark to Mr. Sherman, I don't know whether he wrote those things half of the time, I would just go back and say I happen to think of something else or think of that.

BY MR. MILLER:

Q. Mr. Ischer, I direct your attention to Respondents' Exhibit 1-A or the note Mr. Sherman made. A. Yes, sir.

Q. At the time of your conversation, and if you would like the original notice you may have it, and -- A. (Interrupting) Not at the present time.

850 Q. I don't believe I will get down to the point of an elimination in my question. It is mentioned in these notes that each point calls Chapin and tells you how many hogs have been bought, the weight and cost and type, each day, is that correct? A. Yes, sir.

Q. And you then tell each point where the hogs are going for that day? A. Not at this time, no, sir.

Q. I didn't mean at that time, I don't believe the statement states what time, but at sometime you tell the various points where the hogs are going that day? A. Yes, sir.

Q. And you do that by telephone? A. Yes, sir.

Q. Who would you call? A. To tell where the hogs are going ?

Q. Yes. A. The individual man at each individual point, the man in charge of that point.

Q. How do you know, Mr. Ischer, what the various orders are for that particular day? A. From Mr. Sparks.

Q. Would you have a daily conversation with Mr. Sparks relative to the orders for that day? A.Yes, sir.

851 Q. And would he tell you what type of hogs would go to which packer? A. Yes, sir.

Q. And where would Mr. Sparks be calling from? A. National Stockyards.

Q. From his office at National Stockyards? A. Yes, sir.

Q. And then you would instruct the various places where you obtain hogs as to where those hogs are going based upon the information you received from Mr. Sparks? A. Yes, sir.

* * * * *

REDIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Ischer, do you have a man by the name of William Gibson? A. Yes, sir.

Q. Who is Mr. Gibson? A. Mr. Gibson is our bookkeeper.

852 Q. By our bookkeeper you mean Midwest Order Buyers? A. Yes, sir.

Q. Is he such now? A. Yes, sir.

Q. Was he employed by Midwest Order Buyers on February 1, 1957? A. Yes, sir.

Q. I refer you to that morning and ask you whether or not Mr.

Gibson was at the office in Chapin of the Midwest Order Buyers on that morning? A. Yes, sir.

Q. Do you know where he was at least a part of that morning? A. He was in the back office.

Q. That is the room in which -- A. (Interrupting) The room to the right.

Q. That is the room that was assigned to Mr. Sherman? A. Yes.

Q. That is the room the interview with Mr. Sherman took place? A. Yes, sir.

Q. Was he present -- by he, was Mr. Gibson present at the time that interview took place, having in mind you were walking back and forth to your office from the back office? A. It would be possible.

853 Q. It is possible? A. Yes, he could have been in the office.

* * * * *

Q. Mr. Ischer, you have testified to the so-called work book that is kept and maintained at the Chapin office. Do you recall that? A. Yes, sir.

854 Q. That is a bound book, is it not? A. Yes, sir.

Q. Fairly large? A. Fairly large.

Q. It contains a good deal of information? A. Yes, sir.

Q. Now, you gave us some idea about what that book has. I want to show you what has been introduced in evidence as Complainant's Exhibit No. 1. This has been described as being a reflection of certain pages of this work book. I can tell you the headings here are the headings created by the departmental investigators and do not appear in the book itself as you can see, and note also certain penciled notes which were placed by us, I mean counsel, by counsel or associates, and has nothing to do with the record, but you have this exhibit before you now, is that right? A. Yes, sir.

Q. Now, you said certain information with respect to that exhibit was conveyed to a Mr. Sparks, is that right? A. Yes, sir.

Q. To be absolutely accurate about it you were calling the Midwest Order Buyers' office in East St. Louis, is that right? A. No, sir.

Well, the H. L. Sparks & Company office in East St. Louis.

855 Q. And you were talking to the Midwest Order Buyers -- strike that--

Now, when hogs are purchased, as I understand it, they are entered on this book here? A.They are entered on our book, yes, sir.

Q. Those hogs are purchased at the various points, is that right? A. Yes, sir.

Q. That is, Midwest Order Buyers has a number of so-called country buying points? A. Yes, sir.

Q. To your knowledge, take any country buying point you want and see whether this is true, the country buying point has an office, is that right? A. Yes, sir.

Q. And in that office, I take it, is a desk, the usual office paraphernalia, is that right? A. Yes, sir.

Q. And insofar as the purchase of hogs is concerned does it have a scales? A. Yes, sir.

Q. What kind of a scales does it have? A. Well, a punch-beam scale.

Q. Is it the kind that is usually -- a livestock scale, a livestock platform scale? A. Yes, sir.

856 Q. And is there a supply of scale tickets? A. Yes, sir.

Q. What facilities do you have for the purchase of hogs? A. Oh, we have our regular loading chutes, unloading chutes, pens.

Q. Now, some of these -- strike that.

With regard to location, first, how far apart are they located to each other, generally, any pattern? A. No definite pattern as to the distance between each buying station.

Q. What are the factors consideredin determining where a buying station should be located? A. The supply of hogs in the territory, the volume, being able to do sufficient business to warrant expenditures of stockyards.

Q. Now, let's take, for example, one little example, Chapin, Illinois. Do you know where Chapin is? A. Yes, sir.

Q. What is the closest buying station to Chapin? A. Jacksonville, Illinois.

Q. How far away is that? A. Fifteen miles.

Q. Which direction? A. East and south.

857 Q. What is the next one that is close to Chapin? A. Mount Sterling.

Q. How far is that? A. About 30 miles.

Q. And in what direction? A. Due west.

Q. Is there any other close by? A. Rushville, Illinois.

Q. How far is that? A. About 42 miles.

Q. Which direction? A. Due north.

Q. What about Andrew? A. Andrew is about 60 miles due east of Chapin.

Q. Have you given me one south of Chapin? A. We have no buying stations south of route 36.

Q. Any east of Chapin? A. There is Andres, Illinois.

Q. And west? A. West is Mount Sterling and north is Rushville.

Q. Is it fairly indicative of the way you attempt to bracket the area? A. The majority of our stations, yes, sir, the majority run twenty to thirty miles apart.

Q. Now, these, not only these that are on the blackboard you just
858 read to me but any of them, they all have either truck outlet or rail outlet, is that right? A. Yes, sir.

Q. And so if you want to move to a packer a hog that has been purchased at a volume point which has no rail outlet and you wish to move it by rail you would have to move it from that country buying point to a buying point that has a rail outlet? A. Yes, sir.

Q. Is it true there is movement between the country buying points themselves? A. Constantly.

Q. And eventually there is a movement from a country buying point out to the patron, the ultimate consumer, as far as you are concerned? A. Yes, sir.

Q. To make it clear there is intra country points moving? A. Going on every day.

Q. And finally there comes a time when the hogs move out of the possession of Midwest Order Buyers to the packers? A. Yes, sir.

Q. In addition to the country buying points -- the country buying point contains what, the personnel, who do you have there? A. Our

859 buying points, several are a one-man operation, a few are two men.

Q. Is there one man in charge? A. Yes.

Q. Does he have any title? A. Yes, we call him the buyer or manager of that point.

Q. Let's call him the buyer. A. Yes.

Q. And, of course, one or more assistants, depending on the nature of the work and volume? A. Yes, sir.

Q. What does that buyer do? A. The buyer, well, the first thing, to take care of his yards, look after his scale for cleanliness, balance, to be equipped to know livestock, to buy hogs.

Q. But he is in general charge of the entire transaction, is that right? A. Yes,sir.

Q. If a farmer drives up with a load of hogs he strikes a bargain with him and he buys them? A. Yes, sir.

Q. How are these bought? I am referring now to the fact of whether they are weighed or not weighed, if you know. A. The hogs are bought by weights.

Q. Over the scales? A. Yes, sir, a scale ticket is made.

860 Q. Then what happens? A. Well, prior to when they are bought there is usually a discussion as to what the value of the hogs are, when that comes to an agreement the hogs are weighed on the scale, the scale ticket is made and a copy given to the farmer together with his check.

Q. He is paid at that time? A. Yes, sir.

Q. When he is paid at that time what sum is he paid? A. He is paid the amount, whatever the selling price is that is agreed to for the hogs and whatever the hogs weigh.

Q. Well, you said something about the price of what the hogs -- they agreed on the price, how is that price determined, do you have anything you can look at to see how much to pay a man? A. They get their market from Chapin, Illinois.

Q. How is that done? A. That market is determined by the orders we have, what the packer will bid for the hogs, that market is determined in the morning, passed on to the men at the various operations or stations.

Q. Does Midwest Order Buyers utilize radio or television in their operation in any way? A. Yes, sir, we utilize radio, four or five different

861 radio stations, on television on one broadcast.

Q. Tell us generally what this radio program is? A. The radio program is to give the farmers the market at Midwest Order Buyers for that particular day.

Q. How is that done? A. Well, on some we are on a direct broadcast, others they call into the radio station and when they have their market report out, they put Midwest on top on butcher hogs for the day.

Q. What do you mean by direct broadcast? A. Well, some that we broadcast ourselves over remote control.

Q. Do you ever do that? A. Yes, sir.

Q. Over what station? A. WLDS in Jacksonville.

Q. You have a mechanical connection whereby you broadcast directly over that station ? A. Through the telephone line.

Q. For that area if we want to tune you in we can do so? A. Yes, sir.

Q. What hours? A. From 12:00 to 12:05 daily, six days a week.

Q. What is this television program you are telling us about? A.

862 The television program is broadcast from the Chapin office over the telephone on a tape recording program and some information appears on the television screen concerning the market with the breakdown as we quote the market and it comes off the tape. There is a man at the studio that has a blackboard about that size (indicating) and puts the market quotations for the various weight hogs on the blackboard.

Q. And Midwest Order Buyers is identified as the sponsor and supplying information? A. Yes, sir.

Q. And I assume the same thing in regard to the radio program is true? A. Yes, sir.

Q. Now, you said something about the farmer is paid a check. Of course, he knows what you are offering, knows what other people are offering and for reasons best known to himself he comes to you, is that right? A. Yes, sir.

Q. By you I mean Midwest Order Buyers. A. Yes, sir.

Q. And arrives at a bargain, the stock is weighed over the scale. Does the farmer ever see his hogs being weighed? A. Yes, sir, he does.

863 Q. Is he given an opportunity to weigh them himself if he likes? A. The farmer sees the scales balanced and is invited to weigh his own hogs if he cares to.

Q. You say he was given a check for his hogs, the check would be for the amount, the number of pounds times the price per pounds, is that right? A. Yes, sir.

Q. He is given a check right then and there? A. I would like to clarify that check. He is given a draft, we call it Midwest Order Buyer's draft.

Q. He can cash it immediately? A. Yes, sir.

Q. Are there any deductions for yardage or services of any kind? A. No, sir.

* * * * *

864 Q. Now, after that hog is weighed and a scale ticket is made how
865 does that record find its way into Chapin, Illinois, of that weighing? A. In the afternoon or evening when the man give us the information as to the various classifications of hogs he has purchased.

Q. That information is conveyed -- A. (Interrupting) To the Midwest Order Buyers' office when his day's work, when he knows all his hogs are in or bought for that day.

Q. Then he conveys that information to you? A. He calls Midwest Order Buyers at Chapin.

Q. And there a record is made? A. In this work book.

Q. Now, what other record, if any, is made in that book at Chapin?

A. From that work book and after our various orders are determined, what we are going to fill, we make up the various loads from this information conveyed by these different points.

Q. Now, in making up these loads and in determining these orders you have a conversation with Mr. Sparks in St. Louis, is that right? A. Yes, sir.

Q. Explain to us what does he do, submit orders to you and ask you to fill them? A. No, sir, Mr. Sparks will tell us some of the orders
866 he has for that day, after we have our information we call Mr. Sparks and tell Mr. Sparks the types of hogs we have, he tells us the orders and if we don't think we have that type of packer we can take this order and that order.

Q. Now, I refer you to that book and ask if any other information, you will look at this column and see - pardon me -- look at that reproduction of that book, for example -- A. (Interrupting) This is not a reproduction of the book, an entire page in the book, this is all on a certain day, this is one day but this is over on the side where we make up the different loads to the various packers, this is the information contained on the right-hand side of our book.

MR. MELNICOFF: By this, Mr. Examiner, may the record show he was referring to the first three columns containing tickets?

THE WITNESS: The one would show the packer, the point of origin, the total head count in that load and this weight here (indicating).

PRESIDING OFFICER BAIN: The buy weight?

THE WITNESS: Yes, sir.

MR. MELNICOFF: He has been referring so far to the columns headed "Sold", "Shipped From", "Number of Head" and "Buy Weight".

BY MR. MELNICOFF:

867 Q. I will just point this out to you here. What about this figure, reweigh weights, if shown, and let me tell you very clearly this is a heading which was created by the government investigators, but you recognize the figures under there, do you know what they are? A. Those figures that are in our book?

Q. Yes. A. They are catch weights, most likely, sir, catch weights in that book.

Q. What is a catch weight as you use it? A. Different times during the day we can take our hogs out of the pen and catch weight on them.

Q. Is the term used generally in the stockyards industry? A. I believe they use that freely, we use that at Midwest Order Buyers, I don't know if everybody else does.

Q. Have you ever heard of it being used anywhere else? A. Yes, sir.

Q. And it is just a weight for your own information? A. That is not a reweigh weight.

Q. Now, from whom and from where are those catch weights obtained? A. Those catch weights are obtained from the various buying points.

Q. At what time of the day are they obtained? A. They could be
868 obtained at any time of the day, they could be obtained at 12 o'clock noon, 3:00 in the afternoon.

Q. What time, generally, are they obtained or is there a general time they are obtained? A. No, there is no set time for these catch weights.

Q. I see. But such as they are, whenever they are obtained they are obtained for your information? A. Primarily for the information of the man at that particular point.

Q. All right. Now, Mr. Ischer, I want you, if you will, to describe to me how a load would be made up, and I want to make this a little complicated, I want you to tell us, take a situation where you would have to move hogs from several buying points to the country buying points, out of which this eventually goes by a truck movement, let's say, can you tell us in your own words if you have such an order? A. We have such an order depending on the type of hogs that are wanted and the weight classifications.

Q. You make up that order right now? A. We will take a load for one packer that wants nothing but sows, we don't accumulate enough sows at one individual point at towns and we may have to go to five or six different places to acquire them.

Q. Let's go to six places. A. One truck with the sows on his truck and he gets a catch weight.

869 Q. You mean, he gets that catch weight where? A. At the point of where he started from.

Q. When he picks up those sows from that country buying point he gets a catch weight? A. Yes, sir.

Q. Is that a scale weight? A. He weighs them, yes, sir.

Q. Scale ticket and so forth? A. Yes, sir.

Q. He is on his way now? A. The balance of that truck he has a deck of hogs for another packer. He gets a reweigh on those when he leaves with those hogs for that packer, that is a reweigh on those. He goes to another point and drops off those sows at this other point to go with some sows at that individual point. He may pick up the other deck of hogs at that point which are reweighed and put on that truck and continue on to the packer or he may pick up just twenty or thirty hogs which are reweighed and put on the truck. From there he would go to another point and complete that load and this other truck gets a reweight on all those hogs that are at that individual point and starts out of there and goes to the next place to pick up ten sows, there is a reweigh there and the fourth place the same thing transpires until he goes to these six points and has the full load of

870 sows.

Q. Now, he has his full load of sows, what does he do? A. He continues to the packer.

Q. Is it true, does he have a reweigh on every hog that is on that -- A. (Interrupting) That truck, yes, sir.

Q. How does that information get to you? A. The next morning over the telephone.

Q. What use, if any, is made by you of that information? A. There is a record made and, on the reweigh, that is the weight that appears on this sheet (indicating) the next day on the invoice weight.

Q. That is the weight you used to make up your invoices? A. Yes.

Q. Just to summarize it, then, every item appearing under an invoice or invoices, is a reweigh weight? A. Yes, sir.

Q. Determined on a scale? A. On a scale.

Q. And evidenced by a scale ticket? A.Yes, sir.

Q. That information is conveyed to you? A. It is conveyed to us at Midwest Order Buyers in Chapin.

Q. And the invoice is made up and forwarded to the packer. A. To

871 the packer.

MR. MELNICOFF: Just a moment, Mr. Examiner, please.

BY MR. MELNICOFF:

Q. Now, Mr. Ischer, I want to ask you some more questions about this. You have given an example, as I understood it, of where a truck stopped at five or six country points and picked up hogs, these sows that we were talking about? A. Yes, sir.

Q. Now, does the occasion ever arise when a hog or sow, for example, we were talking about a sow, will move from Andrew to Jacksonville? A.Yes, sir.

Q. And they are kept in a pen for a while? A. Yes, sir.

Q. And other hogs from Rushville move to Jacksonville and are kept in a pen for a while? A. Yes, sir.

Q. In short I used the phrase the staging area, will be considered Jacksonville as an assembly point for the moment? A. Yes, sir.

Q. And hogs that are brought in there would be fed and watered? A. Fed and watered until the day that they are shipped to the packer.

872 Q. How long have hogs been in such a staging area? A. Some up to a week or longer.

Q. Others have been there for less time, isn't that true? A. Yes, some overnight or one day or others have been there for a week or better.

Q. And in each case they are fed and watered, is that right? A. Yes, sir.

Q. And is it your testimony that when they leave that yard, that country buying point for any purpose, whether to go to another country buying point or not they are reweighed, is that right? A. Yes, sir, they are. I might elaborate on that, when that hog goes from Andrew to Jacksonville, when the sow leaves there that is just the catch weight, that sow is there three or four days, then there is a reweight when it is shipped, regardless of how long it is there it has a reweight but they are penned and watered.

Q. Now, let's go to a rail movement. Is there any difference in what you have described in the procedure, from that which you have described as being a trucking movement? A. A full load of hogs in a rail point, that man will give us his information, we will say around 3:00 o'clock in the afternoon, he may have the catch weight on those hogs at that time.

873 We tell him where those hogs are going, those hogs will be fed and watered and prior to being loaded to the packer, sometimes we have several rail shipments, we never load the hogs until the train is expected to pick them up because we don't want them laying in the car for several hours. They are on feed and water and reweighed prior to loading and that might be 10:00 or 11:00 o'clock at night but the catch weight in the book is put down there for the benefit to know how the hogs are doing and then the reweigh weight is when they are finally put on the rails for the packer.

Q. Now, just to summarize again, there may be several weighings when a load, when a Midwest hog moves from one volume point to another that is a watch point? A. Yes, sir.

Q. These hogs may be weighed even though they don't leave the point in which they are, is that right? A. Yes, sir.

Q. And that catch weight is for the purpose of advising the Midwest Order Buyers' organization to determine where its inventory is? A. Yes, sir.

Q. And whether the hogs are doing well or not doing well? A. Yes, sir.

Q. It is your further testimony that every time the hogs leave
874 Midwest Order Buyers there is a reweigh on the scale and a scale ticket? A. Yes, sir.

Q. That information is conveyed to you in Chapin and from that designation you make up the invoice weight? A. That is where we get our weight.

Q. I seem to recall in that book, we don't have the book here but we have it introduced, there are some weights about off-truck weight and so forth. What is the significance of that as far as your operation is concerned? A. As far as our operation is concerned those off-truck weights are important to us inasmuch as these off-truck weights are what we pay the trucker, his trucking.

Q. And it is important, that is the reason you include them? A. Yes, sir.

Q. It has nothing to do with the invoice? A. No, sir, that off-truck weight is only for the purpose of paying the trucker, his rate on that load of hogs.

Q. Is that weight figure also informative as to how well the hogs have stood the trip, so to speak? A. Yes, sir, it helps us to that extent, it more or less is only for information purposes.

Q. It would be guidance in the future if it were a similar load for that same packer, same purchases, you might want to know whether one
875 hog stands the trip better than another? A. Yes, sir, to a certain extent.

Q. Does it have any relation to the invoice weight? A. Yes, the invoice weight is the reweigh weight.

Q. It has been suggested to me it might show you whether or not a hog arrived dead or crippled, is that right? A. That is one of the main things we have to find out, the condition of the hogs and how they arrive there and if there are a few dead on a truck it enables us to find out if the trucker was at fault.

* * * * *

RECROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Ischer, you were describing how you made up the various loads and you stated after you received information from Mr. Sparks concerning the orders, then,you would fill those orders depending upon purchases made at the various places, is that correct? A. We will fill

876 the orders as we can, yes, sir.

Q. If you have purchased hogs that day which fit the order of a particular packer you will fill that particular order? A. Yes, sir.

Q. And that is your responsibility, the matching of the hogs you purchased, so to speak, with the orders you received, is that correct? A. It is all the responsibility of the company, sir.

Q. That is out of Chapin? A. Yes, sir.

Q. Chapin is the place where information is received concerning the daily purchases and on the information concerning the daily purchases you fill the orders? A. It is the responsibility of the Chapin office.

Q. And the orders are filled and you make the invoice at Chapin? A. Yes, sir.

Q. Normally, hogs will move out from your various buying points on the same day they are purchased, won't they? A. Normally, yes, sir.

Q. And the invoice will be made out the same day? A. No, sir, the next day.

Q. Well, then, why is it, Mr. Ischer, that the invoice always bears

877 the same date as the purchase date or moving out date? A. Because that is the date that the hogs left, although the billing is not until the next day. We are always a day behind in our billing.

Q. Well, now, at the time you make a billing out of Chapin do you draw a draft on the packer at the same time? A. Sometimes yes and sometimes no.

Q. Well, let's take the Hunter Packing Company. Is it the usual practice to draw a draft on the Hunter Packing Company when you ship hogs? A. Yes, sir.

Q. And that draft is made up on the same day the hogs are shipped, is it not? A. It would be dated that day.

Q. You mean you backdate the draft? A. The draft will be dated the date the hogs are shipped and the date of the invoice.

Q. And about what time of the day do you normally send out those drafts and invoices? A. We put it in the mail when we complete that day around noon.

Q. Let's assume, Mr. Ischer, that hogs are purchased on a Monday. A. Yes, sir.

878 Q. And shipped to the packer on a Monday. A. Yes, sir.

Q. Now, as I understand your testimony, you don't get around to making the invoice or drawing the draft until Tuesday, is that correct? A. Tuesday morning, yes, sir.

Q. But the invoice and draft would be dated Monday, is that correct? A. Yes, sir.

Q. And you would mail that invoice and draft, then, to the packer at the close of business on Tuesday? A. Sometime during Tuesday.

Q. And how long would it take that draft to clear? A. That I don't know.

Q. Do you have any idea how long it would take that draft to clear? A. No, sir, I don't.

Q. That would clear at the bank at the National Stockyards? A. Yes, sir.

Q. How long does it take normally for you to get -- as a matter of fact, we had testimony on this yesterday -- how long does it take for you to get mail from Sparks to St. Louis in the normal course of business? A. Sometimes one, sometimes two, sometimes three days.

879 Q. How long would it take for the mail between, oh, a couple of your buying points like, say for example, Chapin and Mount Sterling? A. It may take two days, three days.

Q. It may take three days? A. Yes, sir.

Q. And once again, what is the normal length of time that it takes your mail to go from Chapin to National Stockyards? A. Approximately a day to two days.

Q. Approximately a day to two days? A. Yes, sir.

Q. Now, if you draw a draft on a packer, the packer would --

you would mail that draft to the packer, would you not? A. No, sir.

Q. You mail that draft to the bank? A. No, sir.

Q. Where? A. H. L. Sparks & Company together with the deposit slip and they take it down to the bank.

Q. And you would mail the invoice to the-- A. To the packer.

Q. Now, Mr. Ischer, directing your attention to Respondents' Exhibit 5, page 2, are you familiar with that exhibit? A. Not too much, sir.

880 Q. Well, that purports to show a shipment of hogs, 869 hogs to the Hunter Packing Company by Midwest Order Buyers.

MR. MELNICOFF: Would you wait just a moment until we get our exhibits, please? Thank you, Mr. Miller.

BY MR. MILLER:

Q. I hand you, Mr. Ischer, Complainant's Exhibits 17 and 18. A. Yes, sir.

Q. Complainant's Exhibit 17 is an invoice from Midwest Order Buyers to Hunter Packing Company covering 869 hogs? A. Yes, sir.

Q. And it bears the date September 6, 1956, does it not? A. Yes, sir.

Q. Does your invoice cover the hogs referred to in Respondents' Exhibit 5? A. Eight hundred sixty-nine in weight, yes, sir.

Q. And the hogs covered by Respondents' Exhibit 5 by this invoice were purchased on September 6, 1956, were they not? A. I don't know that, sir.

881 Q. I am going by your exhibit here, Respondents' Exhibit 5 dated September 6, 1956, is it not? A. Yes, sir, it is.

Q. Now, directing your attention to Complainant's Exhibit 18-- A. Yes, sir.

Q. (Continuing)--which are scale tickets in support of this invoice, what is the date on those scale tickets? A. September 6th.

Q. Does that indicate to you the hogs had been purchased on September 6th? A. No, sir, it doesn't.

Q. Why not? A. Because this scale ticket is a reweigh ticket, it is a total of the reweigh, summary of the reweigh.

Q. Do you mean to tell me that the first weight entry on Complainant's Exhibit 18-A, that 60 hogs were ever weighed at 13,530 pounds? A. No, I can't say 60 hogs were weighed at that.

Q. As a matter of fact, that 13,530 pounds is not a reweigh weight? A. The sum total of these is the summation of the reweigh weight here.

Q. In connection with this transaction did Midwest Order Buyers ever weigh 60 hogs at 13,530 pounds? A. Not at Chapin.

882 Q. Did they anywhere? A. They weighed 60 hogs, it could have been at Quincy, that many.

Q. Let's take a look at Respondents' Exhibit 5. A. This is the head count (indicating) that is the reweigh weight at these various points.

Q. Mr. Gilby testified the second page of Respondents' Exhibit 5 purports to show hogs purchased by Midwest Order Buyers which were placed on this particular order and shows the number of head purchased by Midwest Order Buyers and the weight? A. Yes, sir.

Q. Can you, by looking at Respondents' Exhibit 5, show me the weighing by Midwest Order Buyers of 60 hogs at 13,530 pounds? A. No, sir, I can't.

Q. In connection with this transaction there were never 60 hogs weighed at 13,530 pounds? A. Not at Chapin.

Q. Anywhere else? A. I wouldn't say about 60 hogs, there were 692 hogs weighed at this figure over here (indicating).

Q. With respect to the date 9/6/56 were those scale tickets printed on that date? A. No, sir, those scale tickets were printed on 9/7/56.

883 Q. The date on the scale ticket is false, too? A. No, the date on the scale ticket is when the hogs were weighed and shipped, the scale ticket was made the next day at Chapin.

Q. It is my understanding, Mr. Ischer, that the scale tickets are supposed to be dated the date they are made. A. The scale tickets were dated the date these reweighs were made at the various points.

Q. These tickets, these particular scale tickets covered by Complainant's Exhibit 18 you say were made on September 7th? A. At the Midwest Order Buyers' office in Chapin when the invoice was made.

Q. And they bear the date September 6th? A. Yes, sir.

Q. So the date does not show the date on which the scale tickets were made? A. Yes, sir, it does, not these particular scale tickets.

Q. You mean the scale tickets covered by Complainant's Exhibit 18 show the date on which these particular scale tickets were made? A. Not these tickets.

* * * *

885 Q. With respect to the scale tickets covered by Complainant's Exhibit No. 18, Mr. Ischer, which you state are printed on September 7, 1956, is it your testimony that those scale tickets were printed on the scale at Chapin? A. Yes, sir.

Q. The scale owned by Midwest Order Buyers? A. Yes, sir.

Q. And no hogs on the scale at the time the scale tickets were printed? A. There were not.

886 Q. Who printed those tickets? A. Any one of three men.

Q. Can you tell by looking at the tickets who printed them? A. I don't know.

Q. Did you print any of the tickets? A. No, sir.

Q. Have you ever printed any tickets at Chapin when the hogs were not on the scale?

MR. MELNICOFF: I object to that, that is beyond the scope. There is any one of three men, he denied he did, whether or not they were printed, any other ticket, is completely irrelevant; moreover, he is asking this man to admit to a violation of the Act, if it is subject to the Act, which may constitute a crime. It is an unfair question in that context and part.

PRESIDING OFFICER BAIN: It seems to me proper cross-examination. The objection is overruled.

BY MR. MILLER:

Q. Would you answer the question? A. What was the question?

Q. If you ever printed any scale tickets when the hogs were not on the scale?

MR. MELNICOFF: May we have a short recess at this point?

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RECROSS-EXAMINATION (Continuing)

BY MR. MILLER:

Q. Maybe it might be well to start over again. With respect to the last question, I believe you were testifying with respect to the scale tickets covered by Complainant's Exhibit 18, were you not? A. Yes, sir.

Q. I believe you testified that you did not know who printed those scale tickets? A. I testified I did not know.

Q. Yes, and you did testify they were printed by an employee of
888 the Midwest Order Buyers on their scale at Chapin? A. Yes, sir.

Q. Were they printed pursuant to your instructions? A. No, sir.

Q. Were you in charge of the printing of all scale tickets at Chapin? A. No, sir.

Q. You are not in charge of all books and records of the Chapin office? A. I am in charge of the books and the records but I do not issue orders to the punching of scale tickets.

Q. Are you in charge of the billings to packers? A. As far as some of the data on it.

Q. And these scale tickets were sent along with the invoice, were they not? A. Yes, sir.

Q. And why were they sent along with the invoice? A. The packer requested the scale tickets.

Q. Why did he request the scale tickets? A. I don't know, sir.

Q. It would be to cover the weight figure on the invoice, would it not? A. It would be, yes.

Q. And since you are in charge of the billings and if the packer requests scale tickets in support of the weight tickets shown on the invoice,
889 it is your responsibility to see that the scale tickets go along with
the invoice, is it not? A. It is the responsibility of the one that does the billing.

Q. You just said you were responsible for the billing to the packers?
A. I am responsible for working, I am partially responsible for working

up the invoice and the weights on the invoice.

Q. And when you work up the invoice and weights on the invoice that includes sending scale tickets to packers who request them? A. It would at the packer's request, yes, sir.

Q. And who else is responsible for that same type of billing besides yourself? A. Any one of two people there.

Q. Who? A. Jack Hazelrigg or Dodd Bryant or Bill Gibson.

Q. Well, now, with respect to the scale tickets covered by Complainant's Exhibit 20 were those also scale tickets printed by an employee of Midwest Order Buyers on the Midwest Order Buyers' scale at Chapin? A. Yes, sir.

Q. Is it also true that no hogs were on the scale at the time those
890 scale tickets were printed? A. I believe so.

Q. And do you know who prepared those scale tickets? A. Yes, sir.

Q. Who did? A. According to the handwriting Mr. Dodd Bryant.

Q. Is he an employee of Midwest Order Buyers? A. Yes, sir.

Q. Would your testimony be the same with respect to Complainant's Exhibit 16 with respect to the scale tickets? A. They were prepared at the office, yes, sir.

Q. And they were prepared by Midwest Order Buyers in Chapin? A. Yes, sir.

Q. By an employee of Midwest Order Buyers? A. Yes, sir.

Q. Prepared pursuant to your instructions? A. They would be prepared because that is the order from Hunter Packing Company for scale tickets.

Q. Who prepared those? A. They would be by Mr. Hazelrigg.

Q. And how about the scale tickets covered by Complainant's Exhibit 14? A. These would be by Mr. Bryant.

Q. Are those scale tickets -- strike that, please.

891 Isn't it also true that no hogs were on the scale when those scale tickets were printed? A. I believe it is true.

Q. As a matter of fact, you know it is true, don't you, Mr. Ischer? A. I believe it is true.

Q. Well, the scale at Chapin won't hold 60 hogs? A. No, it won't.

MR. MELNICOFF: I can't hear, Mr. Miller is lowering his voice. I am having difficulty.

MR. MILLER: The last question was the scale at Chapin won't hold 60 hogs at one time.

BY MR.MILLER:

Q. Is the same thing true with respect to the printing of the scale tickets covered by Complainant's Exhibit 12 as is true about the other scale tickets that you testified about? A. Yes, sir.

Q. They also were printed on the Midwest Order Buyers' scale? A. Yes, sir.

Q. By an employee of Midwest Order Buyers and no hogs were on the scale at the time the scale tickets were printed? A. Yes, sir.

Q. Is that also true with respect to the scale tickets covered by Complainant's Exhibit 10? A. Yes, sir.

892 Q. And also true with respect to Complainant's Exhibit 8 as to the scale tickets? A. Yes, sir, it would be.

Q. And all of the scale tickets you have testified about were printed to support the weight figure shown on the respective invoice, is that right? A. These scale tickets were printed to support the reweigh figure which is the weight shown on the scale ticket.

Q. Is it not true that the scale tickets in each instance were sent along with the particular invoice? A. Yes, sir.

Q. And sent to the packer because the packer had requested scale tickets? A. Yes, sir.

Q. Mr. Ischer, this morning in response to a question by Mr. Melnicoff you described the procedure that you and Midwest Order Buyers followed when a shipment of hogs is made to a particular packer for tracing purposes. I would like to direct your attention to a transaction occurring on December 1, 1955, and covered by Respondents' Exhibit No. 12, the fifth page thereof, Respondents' Exhibit 12 purports to show the source of purchase of all the hogs that were placed on that order? A. Yes, sir.

893 Q. And it is an order of 488 hogs to Swift & Company and Respondents' Exhibit 12 shows 167 of those hogs came from Springfield and the remainder came from various buying points operated by Midwest Order Buyers, is that correct? A. According to this, yes.

MR. MELNICOFF: Did you say something when you first showed him that exhibit, Respondents' Exhibit 12, some sort of purpose, I didn't get that, what was the purpose?

MR. MILLER: I was just identifying it.

MR. MELNICOFF: You said something about a purpose.

MR. MILLER: For purposes of tracing a particular shipment.

MR. MELNICOFF: Very well.

BY MR. MILLER:

Q. Complainant's Exhibit 4, page 3 is a copy of an invoice taken from the books and records of Midwest Order Buyers at Chapin and I direct your attention, Mr. Ischer, to the left-hand column or the notations appearing in the left-hand column of this copy of the invoice. A. Yes, sir.

Q. You will note the notation Obert Trucking Service, 75 head. A. Yes, sir.

Q. You will also note the entry, W. O. Surratt, 92 head. I take it that those were the truckers that transported 167 head to Swift & Company? A. Yes, sir.

894 Q. Are you the one who makes arrangements for the trucking of the hogs to the various packers? A. No, sir.

Q. Who does that? A. That trucking is left to the various points of operations.

Q. The trucking is left to the various points of operation? A. Yes.

Q. Well, now, you would be the one who would make the determination that the 167 hogs at Springfield would go to Swift & Company on that particular order, would you not? A. Yes, sir.

Q. And you would obtain the information concerning that days' purchases at Springfield by a telephone call from Springfield, would you not? A. I would do what? Would you repeat that?

Q. You would have to have information concerning the number of hogs purchased at Springfield on that particular day? A. Yes, sir.

Q. And the kind of hogs? A. Yes, sir.

895 Q. And that information would be related to you from Springfield by the H. L. Sparks & Company buyer at Springfield? A. Yes, sir.

Q. And his name was Henry Harms at that time, during 1955 and '56? A. Yes, sir.

Q. Or I should say October of 1956? A. Yes, sir.

Q. And upon the basis of the information furnished you by Mr. Harms and your other buyers you would make a determination as to what 488 hogs should make up this particular shipment? A. Yes, sir.

Q. And then arrangements would have to be made to truck 167 hogs to Springfield to Swift & Company? A. Yes, sir.

Q. Were those hogs directed direct from Springfield? A. That I can't answer.

Q. Reweighed? A. They were weighed to Midwest Order Buyers.

Q. Well, were they billed to Swift & Company on the basis of a reweigh weight? A. Reweigh, the weight billed to Midwest Order Buyers from the Springfield, H. L. Sparks & Company at Springfield, is the weight that is billed to Midwest, that is where we ship these hogs on their

896 actual weight.

Q. Well, would that be reweigh weight? A. That I can't answer.

Q. You don't know? A. No, sir.

Q. As a matter of fact, Mr. Ischer, when full loads of hogs move from Springfield to Swift & Company, for example, National Stockyards, they would go direct from Springfield to Swift & Company, would they not? A. They could.

Q. Normally they would, would they not? A. I say they could.

Q. I know they could, but what is the normal operation? A. From the Springfield yards? Without having figures in front of me I couldn't answer that.

Q. Would your records show where the hogs would go from Springfield? A. The records would show that, yes, sir.

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REDIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Ischer, you were asked something concerning the normal course of mail between Chapin and the various Midwest Order Buyers' country points. What is the general time it takes to get mail from Chapin to a Midwest Order Buyers' point? Give us examples. A. The time to receive mail at Chapin from these various points from one day to five days.

Q. What is the normal course of mail between Chapin and St. Louis? A. Between Chapin and St. Louis mail is normally the next morning.

Q. What are the facilities for moving mail as you know them between Chapin and the various country points? A. Well, we have some of our points where we have railroad, rail service, we get mail within one or two days. We have other points on these rural routes and Star delivery routes, no railroad service, from three to five days to receive mail.

Q. At Chapin is it delivered to your office? A. No, sir, we have to go to the post office and pick up our mail.

MR. MELNICOFF: I guess that is all for now.

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REDIRECT EXAMINATION

BY MR. MELNICOFF:

Q. The CB&Q hauls mail? A. Yes, sir.

Q. Is there any railroad connection between Chapin and your points which does not haul mail? A. A rail connection that does not haul mail?

Q. Yes, sir. A. Yes, sir.

Q. Which one? A. Chapin and Berry and Mount Sterling.

Q. What about Rushville, does that hold true? A. It is not a rail connection, I don't believe.

MR. MELNICOFF: That is all, thank you.

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900 MR. MELNICOFF: Mr. McNay, please.

EDGAR McNAY

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MELNICOFF:

Q. Would you please state your name? A. Edgar McNay.

Q. Mr. McNay, by whom are you employed? A. Midwest Order Buyers.

Q. And how long have you been employed by Midwest Order Buyers? A. Since 1946.

Q. That has been a continuous employment? A. Yes, sir.

Q. Where is your present place of employment? A. Quincy, Illinois.

Q. I forgot to ask you, will you state your address? A. My address is Quincy, Illinois.

Q. And what is your position at Quincy, Illinois, with Midwest Order Buyers? A. Manager of the Quincy point.

901 Q. How long have you been such? A. Since 1948.

Q. Have you ever been employed at any other Midwest Order Buying point? A. Yes, sir.

Q. Which one? A. One at Ursa.

Q. Illinois? A. Yes, sir.

Q. Go ahead. A. And at Mendon.

Q. Illinois? A. Yes, sir.

Q. Have you ever observed operations at any other Midwest point other than Quincy and Ursa and Mendon? A. Well, I have been to the Berry yards, Macon, Palmyra, both Missouri points. I think those are the only ones on particular.

Q. Now, what in size -- how would you describe Quincy? A. Well, Quincy is one of the larger yards.

Q. Could you give us any comparison, roughly, as to the volume of business they do as compared with the other points? A. Well, I don't have any way of knowing what the other points of volume are.

902 Q. They do a large volume of business at Quincy? A. Yes, sir.

Q. Does Quincy have a rail connection? A. Yes, sir.

Q. Does it also have truck connections? A. Yes, sir.

Q. What railroad is Quincy located on? A. CB&Q.

Q. Mr. McNay, by reason of the fact, that Quincy has a rail connection, are hogs sent into Quincy that are bought at other Midwest buying points? A. For reshipments, yes, sir.

Q. So that a Midwest buying point somewhere else could very well ship hogs into Quincy for reshipment? A. Yes, sir.

Q. And, of course, you buy hogs at Quincy yourself? A. Yes, sir.

Q. And you ship those hogs out, do you, by rail? A. They can go by rail or truck, either one.

Q. You ship both by rail and truck? A. Yes, sir.

Q. And you also ship, move perhaps is a better term, hogs that you buy at Quincy to other country points? A. Well, yes, in a way we wouldn't have too much logic going to country points.

903 Q. I see. So you are -- by you I mean the Quincy point -- is both an assembly point for reshipment and also an originating point for reshipment that you buy? A. Yes, sir.

Q. Have you been employed there since 1946? A. Since 1948.

Q. You have been with Midwest Order Buyers since 1946? A. Yes, sir.

Q. If I haven't asked you before, tell me your duties, what are your duties at Quincy? A. I am a buyer and manager of the Quincy yards.

Q. Will you just explain to us in as much detail as you believe necessary to convey exactly what you do? Explain to us what you do and how you do it, all the details in buying hogs, shipping. A. Well, we will say Farmer Jones comes up with a load of hogs, those hogs could have three sows in them. What I mean by that a few good butcher hogs, might have some two or three sows and might have a boar. We separate those hogs and take each lot by itself to the scale to weigh, punch the tickets, put your seller's name on the ticket and the price on those hogs, then they are delivered to the scales, down to pens, whichever we have our pens numbered, each pen carrying a number is for a different grade of hogs like the butcher hogs to one pen, sows to another and boars to another. They wouldn't be penned together, they would be separated from there on. Then we pay the farmer for his hogs. He gets his check and 904 he goes on home. During the day, about 3 o'clock in the afternoon, near that time, the time we get it done, we make up the total of our hogs as to butchers, sows, boars, whatever it is and we call the Chapin office and give them the run down on what we have for that day's buy.

Q. Don't let me interrupt you. After you buy a load of hogs, turn them in the pens that you talk about, you put them on feed and water? A. Yes, sir, running water is there and feed in the pens at all times.

Q. Go ahead. A. Chapin will in turn either at that time or when they figure how they are going to load the hogs or which grade of hogs to which packer, would, in turn, call us back and give us our orders as to what we are going to do with these hogs. Maybe part will go on rail and part on truck that day and don't even all go to the same packer, they may go to different packers according to the grade and quality of your hogs. If, for instance, we will say, we have a half a load of one kind of hogs for one packer and we need a half a load of the same kind of hogs to finish out this order. They can be sent to us from other points. They come into our place and are throwed into those pens with part of loads that we have 905 to match those hogs where they have excess water and feed. Our hogs going east are loaded from 9 o'clock to 11:00 at night to catch the train. When they are ready for loading the tickets are stamped, dated, and the name of the packer is put on it and the car number. Of course, the Chapin office at that time of night is closed so we, in turn, the next morning give the reweigh for that load of hogs that was shipped the night before. The hogs that go on the trucks are reweighed when they go out on the truck.

Q. In the manner you have described they go over the scale, the scale ticket is punched and the weight recorded? A. Yes, sir.

Q. When is that information with respect to the truck movement, when is that given to Chapin? A. Well, if it is early enough that they are there we do it that evening, if not it is transferred the next morning by telephone.

Q. Then , is it a fair summary to say every time you at Quincy buy a hog you buy it pursuant to a scaling, to a weighing on a scale? A. Yes.

Q. And a scale ticket is punched out at that time? A. Yes, sir.

Q. Is that information conveyed, by weight is conveyed, reported to Chapin, is that true? A. Yes, sir, that afternoon.

906 Q. When a hog moves off your yard, off your country buying point, it goes either to another buying station, to Midwest Order Buyers or to the packer for ultimate delivery? A. Yes, sir.

Q. There is a reweighing at that time, is that true? A. That is right, yes, sir.

Q. On a scale? A. Tickets are punched.

Q. And the information is then conveyed that evening or tomorrow morning depending on the time element? A.Yes, sir.

Q. That has been your unvariable practice as long as you have been with Midwest Order Buyers? A. Yes, sir.

Q. You said something about a farmer drives up with two or three hogs. Tell me, from whom does Midwest Order Buyers buy their hogs? A. We buy them from farmers, they might be hog dealers. They wouldn't be exactly classified as farmers, it would be a producer of hogs.

Q. In number, not in weight now, in number, how many hogs do you buy at a time from a particular person? A. Well, you can buy -- I bought as small as one, you couldn't get any smaller than that, and I bought as much as four or five hundred from one man.

907 Q. What is the usual size of the load that you buy? A. Well, it will vary from pick-up trucks, that will run from nine or ten hogs, a handy-farm truck from twenty to twenty-five on up to trailer loads.

Q. You buy a number of hogs from a number of people, is that right? A. Yes, sir.

Q. You have been there now, you say, since 1948. Can you tell us from your experience whether or not you buy hogs repeatedly year after year, time after time from the same people? A. We do.

Q. Do you have repeat customers? A. We do.

Q. Do you know why they come to market their hogs with you? A. They are satisfied with our prices and our manner of operation in handling their hogs and everything, satisfied customers. If the fellow is dissatisfied he wouldn't repeat.

Q. Do you have any unusual circumstances such as the farmer will come to you without shopping anywhere else to see if he can get a better price or as good a price?

MR. MILLER: I object on the grounds it is completely irrelevant to any issue in this case.

PRESIDING OFFICER BAIN: What is the relevancy of that?

908 MR. MELNICOFF: The relevancy, in the last column in paragraph 4 of the Order of Inquiry, we are concerned with a weight added figure less than the Order of Inquiry. I believe that weight added figure must depend, in the first place, on the purchase weight figure, this evidence concerns that figure.

PRESIDING OFFICER BAIN: You are talking about the purchase from the farmer, now, the producer?

MR. MELNICOFF: Yes, sir, that is the purchase figure that is involved in the ultimate figure.

PRESIDING OFFICER BAIN: How is that involved?

MR. MELNICOFF: We can't arrive at a sales figure until we know the purchase figure we are trying to introduce in evidence regarding the purchase, it is all one stream and can't be separated out.

PRESIDING OFFICER BAIN: What was your question, something about the farmer being satisfied?

MR. MELNICOFF: Yes.

PRESIDING OFFICER BAIN: Again, is there any charge here that the weights from farmers have been wrong?

MR. MILLER: No, sir.

MR. MELNICOFF: No, sir.

PRESIDING OFFICER BAIN: I can't see the relevancy of that.

909 **MR. MELNICOFF:** I won't pursue that any further.

PRESIDING OFFICER BAIN: All right.

BY MR. MELNICOFF:

Q. You have mentioned that scale weights are involved in both weighs and reweighs. What scale do you have at Quincy, Illinois? A. We have two sets of scales.

Q. Are they the usual type of scales that are found in stockyards, that is, where livestock is bought and sold, is that right? A. Yes, sir.

Q. Platform scales, I take it? A. Yes, sir, with a rack or a pen around them to keep the animals on the scales.

Q. Are they inspected? A. Yes, sir.

Q. By whom? A. By the State of Illinois. We are in railroad property doing business there and those are railroad scales. They come there and inspect and check them themselves and at Morris Company we have a contract with them to check our scales.

Q. Does Midwest Order Buyers themselves make frequent checks on the balance of the scales? A. We do that a number of times a day. We always keep it in balance.

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CROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. McNay, I was interested in your testimony concerning the manner in which you handled hogs there at the Quincy buying station and your reference to your sorting operation. Now, most of the hogs purchased are purchased in small lots, are they not? A. Yes, sir, a big per cent of them are in small lots.

Q. With respect to weights and types of hogs there would be quite a variance, would there not? A. Oh, yes.

Q. And in making up your orders, that necessitates a lot of sorting, does it not? A. Yes, sir.

Q. Now, assuming that hogs are not fed and watered, just assuming that fact, assuming also that hogs are weighed in and driven back to the scale for sorting and that they are then sorted and, oh, a couple or three hours later shipped out. There would be a shrink on those hogs, would there not? A. You said no feed or no water?

911 Q. Yes; I am asking you to assume that fact. A. I never shipped them that way.

Q. Well, you have been in the hog buying business for quite a number of years, Mr. McNay, and I assume you are familiar with all types of hog operations. I was wanting to get your views of the hog buyer with respect to whether or not hogs will shrink from the time they are purchased from the time they are sold after, with sorting in between, if they have not been fed and watered?

MR. MELNICOFF: I object to that, it is completely beyond the scope of direct and it assumes a state of fact not in this record. It calls the witness to draw a conclusion.

PRESIDING OFFICER BAIN: I don't think it is beyond the scope, the testimony is they are bought and fed and weighed again, I don't get this business about feeding them and gaining weight and weighing them again, but I think the whole matter is sufficiently unclear, it should be cleared up. The objection is overruled.

MR. MELNICOFF: I ask you to reconsider. He specifically excluded feeding and watering in his questioning and the witness testified he knew nothing about it when they did not feed and water.

PRESIDING OFFICER BAIN: Well, if he has been in the hog business that long and doesn't know about it I guess he can answer that. The question was to clarify it. The objection is overruled.

912 MR. MELNICOFF: Answer the question. Do you care to have it read?

THE WITNESS: The way he stated the question, you put hogs in the pen with no feed and water, I can't back up my statement, but, like I say, there would be a shrink, there sure wouldn't be no gain.

BY MR. MILLER:

Q. When I am referring to shrink I mean the amount of weight the hog will lose in a given period of time. Is that the way you understand the term? A. Yes.

Q. In other words, if you have 100 butchers that averaged 200 pounds and weighed in at 20,000 pounds and assuming they are sorted and held without feeding and watering and loaded out and if they weigh 19,800 that would be 200 pounds shrink, would it not? A. That is right.

Q. I have been told by a person I consider somewhat of an expert in the hog buying business that the mere sorting and holding of hogs for an hour will result in at least a one per cent shrink if they are not fed or watered? A. It is possible.

Q. Do you have any comment?

MR. MELNICOFF: You are bringing into this record that which
913 is not a part of this record. How do we have the opportunity to test the veracity of the statement of what he has been told and yet ask the witness to comment on it. It is assuming a statement of fact not a part of this record.

PRESIDING OFFICER BAIN: He has already answered, he said it would be possible.

MR. MELNICOFF: I move that the question is improper, I didn't know he made the answer.

PRESIDING OFFICER BAIN: I think the question is proper, it has already been answered. The objection is overruled.

BY MR. MILLER:

Q. Under the circumstances I have described wouldn't you expect at least a one per cent shrink in those that have not been fed and watered?

MR. MELNICOFF: I object to that question, it is even now based upon more evidence not a part of this record.

PRESIDING OFFICER BAIN: It is not based upon any evidence, asking the man if one per cent would be a reasonable amount. The objection is overruled.

A. One per cent would be possible, I guess.

BY MR. MILLER:

Q. Wouldn't you consider that normal under those circumstances?

MR. MELNICOFF: I object again, he is using tests of normal and

914 reasonable. We don't have such standing in this record. We don't know the circumstances under which those terms were determined, how can he ask this man those questions?

PRESIDING OFFICER BAIN: Well, the witness seems to be answering all right, doesn't he?

MR. MELNICOFF: I beg to disagree.

PRESIDING OFFICER BAIN: The witness seems to be answering.

MR. MELNICOFF: I beg to disagree with the Examiner.

PRESIDING OFFICER BAIN: You are going on the assumption Mr. Miller has set up a standard of one per cent an hour, somebody told him that and he is asking the witness if it is right.

MR. MELNICOFF: How in the world would I know anybody told him the circumstances under which that one per cent was arrived at?

PRESIDING OFFICER BAIN: It makes no difference in the world whether Mr. Miller was telling the truth or lying, he is asking the witness if that is reasonable.

MR. MELNICOFF: I disagree with the Examiner's premise.

PRESIDING OFFICER BAIN: Suppose he asked him 15 per cent, is that setting up a standard?

MR. MELNICOFF: Yes, sir.

915 PRESIDING OFFICER BAIN: I disagree.

MR. MELNICOFF: I disagree and my statement of disagreement is in the form of an objection.

PRESIDING OFFICER BAIN: The question has already been answered.

MR. MILLER: I don't know if I had an answer to the last question.

BY MR. MILLER:

Q. Answer the question, please. A. One per cent?

Q. Yes, sir. A. Per hour, did you say, or in an hour's time?

Q. No, one per cent after the hogs have been held for a couple or three hours.

MR. MELNICOFF: No feed and water.

BY MR. MILLER:

Q. Would you not consider a one per cent shrink under those circumstances normal? A. To my knowledge I suppose it would be.

Q. You operate a trucking line, do you not, Mr. McNay? A. Yes, sir.

Q. How many trucks do you have? A. Three.

Q. You do a lot of trucking for Midwest Order Buyers, do you not?

916 A. Yes, sir.

* * * * *

Q. Well, now, you were talking about reweigh weights, Mr. McNay, is it your testimony that the tickets were printed when you reweigh hogs?

917 A. At our place they are, yes, sir.

Q. At Quincy? A. Yes, sir.

Q. Are those tickets sent to Chapin? A. No.

Q. Those tickets are retained at Quincy? A. Yes, sir.

Q. For how long do you retain those tickets? A. I got a box there or drawer, when it gets full I discard them.

Q. Do you have tickets for '55? A. No, sir.

Q. For '56? A. No, sir.

Q. Did you ever work at the Chapin office? A. No, sir.

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REDIRECT EXAMINATION

BY MR. MELNICOFF:

918 Q. Mr. McNay, you have testified to the initial weighing of the stock, you buy it and you testified to reweigh when it goes out? A. Yes, sir.

Q. Have you observed a gain in weight between those two weights after feed and water? A. Do I observe them?

Q. Have you? A. For sometime, yes.

Q. Now, on this interview that you had with Mr. Sherman, have you now told us everything that occurred in that interview with Mr. Sherman? A. As far as I know he came in and looked the yards over, asked a few questions, stamped tickets at the front scale and asked if there was anyplace else to be weighed and we took him to the back scales and he stamped tickets there.

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919 JOSEPH H. GILBY

was recalled as a witness, and having been previously sworn by the Presiding Officer, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. MELNICOFF:

Q. You are the same Joseph H. Gilby that testified previously in this proceeding? A. Yes, sir.

Q. Mr. Gilby, I want to refer you to paragraph 11 of the Order of Inquiry, page 11, to the second item on that page dated November 2, 1954, scale ticket No. 588615. You may recall that we considered that on an earlier date in this proceeding? A. Yes, sir.

Q. Now, I herewith hand you a scale ticket which has been marked for identification as Respondents' Exhibit 18. Do you see that? A. Yes.

Q. That concerns that 500 pound hog transaction? A. Yes.

Q. Do you recall that now? A. Yes, I do.

920 Q. Would you give us your explanation of that item? A. When this was requested here in the previous, on the previous occasion when I was testifying, I said that I could not read these dates on this scale ticket and my scale ticket that went along was not changed as to date, I understand it was changed later and I followed that up and found that the date on the scale ticket was changed from October 2nd to November 2nd.

MR. MILLER: May I inquire as to what scale ticket Mr. Gilby is referring to?

THE WITNESS: No. 588615H.

MR. MELNICOFF: That is the one on Exhibit 63-A when Mr. Gilby testified it had been dated by the stockyards as October 2, 1954, in error, it should be November 2, do you recall that?

MR. MILLER: Yes, I gather Mr. Gilby is now referring to that that he verified that fact, that it was actually issued on November 2, '54, is that correct?

THE WITNESS: More than that --

MR. MILLER (interrupting). I am sorry for my interruption but the only reason I made the inquiry I didn't know which scale ticket you were talking about.

THE WITNESS: Yes, that is it, that scale ticket has one hog, 500 pounds written on it, and that scale ticket with the 500 pounds written on it,one hog, is the one that was used in connection with the invoice

921 which was dated November 2nd. I stated that we had found the scale ticket, that represented that one hog, 500 pounds, that is in pencil writing which has never been used, that is, it is still in our possession and file. Now, to confirm it, that that is the same scale ticket, I had research made at my direction and confirmed the fact that that is the scale ticket, the same scale ticket and is the scale ticket that represents that one hog of 500. It is a hog that was received from producers, here is the invoices which the hog can be found on, but out method is where we have left overs in the day's work, it is a yard book and all was recorded so I found on the October 28th, which is the date of the scale ticket, one hog, 500. It was a left over that was weighed on October 28th to be used on the next shipment. November 2nd was the opportunity to use the hog but the party making out the invoice, without spending time to find that scale ticket, wrote on the scale ticket in handwriting, one hog, 500 pounds. Now, in order to further confirm that this is the hog, in a period of two weeks, there is no such hog in this daily record. We don't find that hog or a similar one shipped out and this has been pointed out to me to be the only hog that was existing during that period. The scale ticket was never picked up and put in the files, never picked up to attach to the invoice that went to the packer. I have these invoices here and this was confirmed

922 by the scaler, by the carbon which I have also procured as a record of the weighing of this one hog, on an individual card. I think that confirms the fact that that ticket that we had here is the ticket for the one hog, 500 pounds, that was written in pencil on the scale ticket that went forward to the packer with the invoice.

BY MR. MELNICOFF:

Q. Respondents' Exhibit 18 for identification is the scale ticket for the weight of that hog, is that right? A. Yes, written on here (indicating).

Q. And that shows that the hog which appears on Respondents' Exhibit 63-A in pencil was actually, in fact, weighed and did weigh 500 pounds on October 28, '54? A. And represented by this scale ticket.

Q. Yes, thank you. So we do have a scale ticket for the 500-pound hog? A.Yes.

Q. Mr. Gilby, I want to refer you to paragraph -- pardon me, strike that.

Do you have anything further to add in regard to this one transaction? A. I don't think so. That is the same ticket.

Q. May I refer you now to --

PRESIDING OFFICER BAIN: We have been referring to a scale ticket, what we have been talking about is a copy of the scale ticket.

923 THE WITNESS: The retained copy.

PRESIDING OFFICER BAIN: Not the original ticket.

MR. MELNICOFF: Mr. Examiner, may I offer into evidence as Respondents' Exhibit 18 the scale ticket as you have described it, as Respondents' Exhibit 18?

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[CROSS EXAMINATION]

BY MR. MILLER:

Q. Complainant's Exhibit 63, Mr. Gilby, is a copy of the scale ticket retained in the records of Sparks & Company which -- A. (Interrupting) That is for this one.

Q. (Continuing) -- shows a notation of one hog, 500 pounds. A. I have it before me.

Q. Now, is it your testimony that that notation was placed on the scale ticket by an employee of H. L. Sparks & Company? A. Yes.

Q. And your explanation of why that notation was placed on the

924 scale ticket is that you reached back five days and found a scale ticket showing the scale tickets of one hog weighing 500 pounds? A. The explanation of why it was not on the scale ticket here is because they failed to find this ticket and attach it to the invoice at the time.

Q. Is it your testimony, Mr. Gilby, that the entry, five hundred and one on the scale ticket, Complainant's Exhibit 63-B, represents a transfer of information contained on Respondents' Exhibit 18. A. I wouldn't say it is a transfer, it is a writing of the same material on this scale ticket, same copy.

Q. If it is a writing of the same material that appears on Exhibit 18 it is a transfer of that material? A. I don't call it as such.

Q. Is it your testimony that the notation 500, appearing upon Complainant's Exhibit 63, is supposed to be the same information that appears on Respondents' 18? A. As to the one hog, 500, yes.

Q. Now, according to your testimony, then, Sparks & Company purchased a hog from producers on November 28, 1954, is that correct?

925 A. No, October 28th.

Q. October 28th, pardon me. And that purchase by Sparks from producers is evidenced by Respondents' Exhibit 18, is that correct? A. Yes.

Q. Is it your testimony, then, that five days later that hog was sold to a packer at the weight at which you purchased the hog from producers, is that correct? A. Yes.

Q. And that is your best recollection from that notation? A. The weight was weighed at the time it was taken off the producers.

Q. Which was the weight obtained at least five days prior to the sale of the packer, is that not correct? A. It might have been or may have been after it was taken in.

Q. Well, this one hog at 500 pounds that is referred to on Complainant's Exhibit 63 was sold to the packer on November 2nd, was it not? A. Yes.

MR. MILLER: I have no further questions and have no objections to the receiving of Respondents Exhibit No. 18 in evidence.

PRESIDING OFFICER BAIN: The exhibit is admitted.

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926 [REDIRECT EXAMINATION]

BY MR. MELNICOFF:

Q. Mr. Gilby, will you turn now to paragraph 7 of the complaint? Do you see that, sir? A. Yes.

Q. Have you inquired into the transactions alleged there? A. This has to do with three lots of hogs as stated in paragraph 7, 75 hogs, 87 hogs and 63 hogs and it is complained that following the weighing of the hogs each draft was penned in a separate pen assigned to respondents at the stockyards. While the hogs were being held in said pens, respondents, the word substituted is used here in each lot of hogs, one hog which had not been weighed for one of the hogs which had been weighed. Thereafter, the three lots of hogs were delivered to the packing company without reweighing and the company was billed by respondents upon the basis of the weights obtained at the time the hogs were reweighed to respondents.

927 Transaction, as I understand it to be, was a sale that was late in the day and--

PRESIDING OFFICER BAIN (interrupting): How did you get this information, Mr. Gilby?

THE WITNESS: By making inquiry on several occasions.

PRESIDING OFFICER BAIN: Well, go ahead if there is no objection. It seems to me that is pure hearsay.

MR. MELNICOFF: Mr. Examiner, I realize that on the surface it may appear to be hearsay. If you will note the transactions which are alleged to have occurred back in 1956, certainly, almost, not quite three years ago, the persons involved, the individuals, we don't know who they are and this must be, and the only testimony we can have on it is reflected by our records which are in the control of Mr. Gilby because you know he performs the accounting work for them and he has to consider these matters in making his audits, reports and so forth. It would be impossible to search out and find a particular man and ask him about a particular transaction, these people don't recall this almost three years ago. Do you recall, if I may, the only evidence adduced, as I recall it, was a statement by Mr. Sands and Mr. Sherman both of whom testified they made a particular point of watching this transaction and recorded the results of this watch

at the time. This is going back three years, we had no such person then,
928 didn't realize we were committing a violation, we weren't manufacturing or recording evidence on the point.

PRESIDING OFFICER BAIN: If you have no record what is he to testify on?

MR. MELNICOFF: He has records from which he ascertained the information he is going to bring.

PRESIDING OFFICER BAIN: Well, I believe that on the first day of this hearing there was an objection made that an investigator could not testify what was in the records but that he could make extracts from them and present them. Now, is what Mr. Gilby going to do, is he going to present charts from the records and explain what they mean?

MR. MELNICOFF: Have you finished?

PRESIDING OFFICER BAIN: Yes.

MR. MELNICOFF: No, he is not going to make a physical change, it will be in the nature of an oral tabulation.

PRESIDING OFFICER BAIN: That is what I ruled out the first day of the hearing. I don't know if it is correct but that is the one I made. Now, here we are not letting the complainant do that but letting the respondents do it.

MR. MELNICOFF: I don't ask for any advantage, I am quite sure I will be given none and I don't seek it but I merely explain to you this is the nature of the best evidence that is now available, this goes back to three years, it concerns a small number of hogs out of a great number,
929 these respondents have a volume of transactions, to ask someone now to go back and say, do you recall one hog being substituted, a total of three hogs, out of three drafts, three drafts out of 75, 87 and 63 hogs, is taxing the memory and recollection of the people there. Those people are not trained investigators, they don't recall, they see these things and so many items going across and if you bear in mind, Mr. Examiner, it is true Mr. Sherman testified they made a special watch, they recorded their notes and made a complete record of what they saw. We didn't do that, we weren't looking for a violation or defense or anything.

PRESIDING OFFICER BAIN: Go ahead. I suppose you are going to show by your record that did not happen?

MR. MELNICOFF: To the best of our ability, no, we are not going to show it didn't happen, we do not deny that the circumstances occurred as alleged in the complaint. I am saying we do not deny, I do not mean that we couldn't possibly take that position but we don't have the evidence to deny it for the reason indicated it is such a small item, no particular attention was made to it so we can't say it. However, assuming for the moment the allegation is true, we wish to bring to this record the testimony of this witness which is the best we have to explain it.

930 PRESIDING OFFICER BAIN: All right, go ahead.

MR. MELNICOFF: I am sorry, Mr. Examiner, I don't like to put this evidence in the record and I am trying by my candor under the circumstances.

BY MR. MELNICOFF:

Q. Will you continue, Mr. Gilby? A. When the packer was informed that it was too late to handle this purchase he was requested to leave the hogs in his pens which he consented to do.

Q. You mean the respondents requested? A. Yes. In the morning the representative of the packer and the representative of H. L. Sparks & Company, this was the first time that the packer's representative or the packer had seen these hogs and he found three hogs that were not acceptable to them in the trade, in the trade or in the purchase or sale, and they went upstairs. These were his hogs and the hogs were picked out of there which he didn't like and three more hogs were by agreement taken down and billed in this invoice.

Q. Mr. Gilby, let me ask you this quickly. The hogs involved in these first three drafts had been purchased the day before by the Krey Packing Company from the respondents? A. Yes.

Q. The Krey Packing Company had not seen the hogs that they purchased? A. That is correct.

931 Q. Then, on the following day a representative of the packing company and of the respondents viewed the hogs? A. That is right.

Q. For some reason the representative of the packing company did not like one hog in each of the pens? A. That is right.

Q. And he asked that there be a substitution made? A. Yes.

Q. And he went to other hogs owned by the respondents located close by? A. Yes.

Q. And moved a total of three hogs putting one hog in each of the pens? A. As to putting them in pens they became the hogs billed out on the invoice.

* * * * *

932 Q. Was the substitution made at the request of the packer or the purchaser? A. Yes.

Q. And the packer's representative was there? A. Yes.

Q. Did he make the choice of the hogs he wanted taken out of the already weighed hogs? A. Yes.

Q. Did he choose the hogs he wanted to put in? A. Yes.

Q. Is this an uncommon or unusual occurrence on the stockyards? A. I can't answer that except that I understand it is.

Q. Now, I direct your attention to the three items listed on the following page of this Order of Inquiry at the top of the page. Do you have any explanation to add to those other than what you have already given? A. Yes, I do. Our records do not show any record of this, mentioning the items that are listed there.

Q. You mean the items and dates of September 14, '56, September 13, '56 and October 10, '56, is that right? A. Yes, sir.

MR. MILLER: May I correct the record, please? Isn't the first item on page 7 a transaction which was corrected to read 9/14/55?

933 THE WITNESS: I can trace it to that.

MR. MELNICOFF: I think you are right, you are correct, even with substituting the date to read September 14, '55, the answer is the same, you have no record?

THE WITNESS: Yes.

MR. MELNICOFF: That is all.

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RECROSS-EXAMINATION

BY MR. MILLER:

Q. Mr. Gilby, with respect to the substitution of the three hogs in the Krey shipment you gave a detailed explanation of that transaction. What was your testimony based on ? A. It was based on inquiry sometime ago, continued inquiry, and just now, further inquiry.

Q. Was it based on any records of H. L. Sparks & Company? A. That is what I was searching through.

Q. Well, does any record in H. L. Sparks & Company show what you testified about? A. Only memorandums.

Q. There is memorandum in H. L. Sparks & Company concerning this transaction? A. That is where I found the information.

Q. In what form is that memorandum? A. I couldn't tell you the
934 record on which the matter was written.

Q. Do you mean to say there is a writing in the records of H. L. Sparks & Company which says that by agreement between some member of H. L. Sparks & Company and a buyer for Krey Packing Company the three hogs were substituted? A. There is a record and I have confirmed it with the representatives of each department.

Q. What is that record? A. The record is that three hogs were taken out of the lots which were the packer's lots and three hogs of the respondents' lots were replaced in those lots.

Q. Upon what record of H. L. Sparks & Company does that information appear? A. The name -- it is just a memorandum record, I don't know whether you would give it a name, just as I presented the book here today.

Q. You mean a slip of paper in the records of H. L. Sparks & Company? A. That is right.

Q. Do you have that paper with you? A. No, sir.

Q. Who is the buyer for Krey Packing Company? A. Geion is the name.

Q. What are you referring to? A. The results of my search, reaching the packer.

935 Q. You are referring to the notes you wrote on the copy of inquiry? A. Yes, that is the place I wished to write it because it is the item mentioned.

Q. As a matter of fact, isn't it true that the buyer of Krey Packing Company had something to do with these lots of hogs? His name is Tommy Geion? A. Yes.

Q. Isn't it true the substitution had already occurred before Geion came up to look at the hogs? A. No, to my knowledge it occurred when he came there.

Q. Isn't it a fact Tommy Geion had never seen the hogs until after the substitution occurred? A. No, not to my knowledge.

Q. Do you know whether or not that is a fact? A. Yes.

Q. Upon what do you base that knowledge? A. Oh, on knowledge, inquiry, yes, sir.

Q. And you didn't see fit to bring the memorandum you described with you? A. No.

Q. You don't have it with you? A. No.

Q. When was the last time you saw this memorandum? A. Several
936 months ago I saw it.

* * * * *

EDGAR McNAY

was recalled as a witness, and having been previously sworn by the Presiding Officer, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. MELNICOFF:

Q. I have one or two questions to ask you.

You are the same Mr. McNay that testified before? A. I am, sir.

Q. Mr. McNay, was your testimony concerning the buying practice at Quincy with your buying station? A. Yes, sir.

937 Q. Are those the same practices followed throughout the Midwest Order buying stations so far as you know? A. Yes, sir.

MR. MELNICOFF: That is all.

CROSS-EXAMINATION

BY MR. MILLER:

Q. I believe you testified, Mr. McNay, that you have been in Quincy since 1948, is that correct? A. Yes.

Q. And you went to work for Midwest Order Buyers in 1946? A. Yes, sir.

Q. How many buying stations did you work at? A. I worked, well, I can give you the history of it. I worked at the Mendon station for approximately six months, we closed that plant and went to Ursa, the two points were four miles apart, that was the reason for closing the one, and I worked there until the first week of December 1948 and went from New York to open the yards at Quincy.

Q. I believe you testified you never worked at Chapin? A. No, I never worked at Chapin.

Q. And your duties would never include billings to packers? A. No, sir.

* * * * *

940 Friday, April 24, 1959

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941 EARL W. SHERMAN

was called as a witness, and having been sworn by the Presiding Officer, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. State your full name. A. Earl W. Sherman.

Q. Are you the same Mr. Sherman that testified previously in this proceeding? A. I am.

Q. I believe you testified that you made an audit of the books and records of Midwest Order Buyers of Chapin, Illinois? A. I did.

Q. And when was it that you first went to Chapin? A. January 28, 1957.

Q. Now, directing your attention, Mr. Sherman, to February 1, 1957, did you on that date have an interview with Mr. George Ischer, general manager of Midwest Order Buyers? A. I did.

942 Q. Did you make notes of that interview? A. I did.

Q. I hand you a document received into evidence as Respondents' Exhibit 1-A and I will ask that you examine the document and state whether or not those are the notes you made at Chapin, Illinois at the time you had your interview with Mr. George Ischer. A. They are.

Q. And would you state whether or not those notes were made at the time of this interview? A. They were.

Q. Where did it take place and where did you write those notes? A. In Mr. Ischer's office, as formerly described, the left office at the top of the stairs. I was sitting by Mr. Ischer's desk, had my pad in my lap and wrote them all there.

Q. At the time you made these notes was Mr. Robert McCoy present? A. He was not.

Q. After you had completed writing these notes, Mr. Sherman, what then happened? A. Mr. Ischer said he would like to read these to Mr. Sparks. I went back across the hall where Mr. McCoy was working.

Q. Was there an office across the hall? A. Across the hall at the

943 right side of the steps.

Q. Directly across the hall from Mr. Ischer's office? A. That is correct.

Q. Is that the office that had been assigned to you and Mr. McCoy? A. To work in while we were there, yes, sir.

Q. Then what happened, Mr. Sherman? A. Later I told Mr. Ischer that I wanted to get some of these facts down in affidavit form and called him across the hall in the office where Mr. McCoy and I had been working and prepared the affidavit, read it to Mr. Ischer, gave it to Mr. Ischer to read and he read it and said he couldn't sign it until he talked to Mr. Sparks.

Q. I hand you Complainant's Exhibit 42, Mr. Sherman, and ask whether or not that is the affidavit to which you referred? A. It is.

Q. Did you write that affidavit? A. I did.

Q. And where did you write the affidavit? A. In the office on the right of the steps, the office we had been working in at all times while we were there.

Q. After you had finished writing the affidavit, Mr. Sherman, and before it was signed by Mr. Ischer, did you read the affidavit to Mr. Ischer? A. I did.

944 Q. Did you read the entire affidavit to Mr. Ischer? A. I did.

Q. Did you at any time have any discussion with Mr. Ischer concerning the Hunter transaction referred to in the affidavit? A. Yes, sir.

Q. Will you state what that discussion was? A. Mr. Ischer said that "The Hunter transaction was not in the narrative or notes you took down this morning", and I said, "No, that is right, but I do want a specific instance of the thing you mentioned this morning about adding weight".

Q. Mr. Sherman, after you had finished writing the affidavit and before it was signed, was Mr. George Ischer given an opportunity to read the affidavit? A. He was. I put it in his hand and standing beside the desk he read it.

Q. Did you hand him the affidavit and did he read it? A. He did.

Q. Then what happened? A. He took it across the hall and called Mr. Sparks and read it to him, came back and said "Mr. Sparks wants to talk to you". I went over and talked to Mr. Sparks and Mr. Sparks mentioned specifically the Hunter transaction.

Q. Did you read the affidavit to Mr. Sparks? A. I did.

945 Q. Mr. Sherman, I hand you documents which have been previously marked for identification as Complainant's Exhibits 79 and 80.

MR. MELNICOFF: Mr. Examiner, I believe these exhibits were previously offered and you refused their admission into evidence. May I inquire why they are being offered again?

PRESIDING OFFICER BAIN: Have those been offered?

MR. MELNICOFF: I thought they had been and were refused.

MR. MILLER: You will recall, Mr. Examiner, I questioned Mr. Gilby about these documents during my cross-examination of him and an objection was made to having the documents identified on cross-examination and at that time I stated that they would be fully identified and explained later in the proceeding. I do not believe an offer was made during my cross-examination of Mr. Gilby.

PRESIDING OFFICER BAIN: My notes are not perfect but it would be a very serious defect in my method of operation if I sustained an objection to an exhibit and did not show it in my notes. My notes do not indicate any ruling on that so I don't think they have been refused admission.

MR. MELNICOFF: Perhaps not, perhaps it is my fault. Perhaps that will be developed when they are offered.

PRESIDING OFFICER BAIN: Yes, sir.

946 BY MR. MILLER:

Q. I ask that you examine these documents, Mr. Sherman, and state what they are, if you know. A. These are releases which I obtained on the Springfield Stockyards Company showing the release of hogs as they leave the stockyards.

Q. Did you personally obtain these releases from the Springfield Stockyards Company? A. I did.

Q. And are these two documents part of the official records of the Springfield Stockyards Company? A. Yes, sir.

Q. Are you familiar, Mr. Sherman, with the procedure followed at the Springfield Stockyards in the loading out of hogs? A. Yes, sir.

Q. Will you describe that procedure? A. Releases are made by the person wishing livestock to leave the yards. The buyers for H. L. Sparks & Company, Mr. Harms, H. C. Harms, when he leaves the stockyard he has had certain hogs put in certain pens and on this release that he leaves with the stockyards company he shows how many there are and what pens they are in and leaves them there with the company for later release. Then when they are picked up the stockyards company counts them out of the pens into the alley, they then count them out of the alley
947 into the truck. They have the truck driver receipt this by his signature. He has received the described livestock and also puts his truck

license number, or has him do it, on the back side of the release. They again write the number of head released, the license number of the truck and, in most cases, the time of the release. In some instances, they would even put the pen numbers that they came out of and the number of head out of those pens and total them.

Q. Mr. Sherman, must release slips such as these two documents be made out as you have just described whenever hogs are released from the stockyards by the stockyards company? A. They have to have the release before they will let anything leave the stockyards.

Q. Based upon your knowledge of the procedure followed at the Springfield Stockyards in connection with the release of hogs will you interpret the data appearing on Complainant's Exhibit No. 80?

MR. MELNICOFF: Pardon me, should that exhibit be offered in evidence before he be permitted to interpret it?

PRESIDING OFFICER BAIN: I think so. If it is refused admission, of course, anything on it shouldn't be testified to.

MR. MILLER: I offer into evidence Exhibits 79 and 80.

948 PRESIDING OFFICER BAIN: Any questions or objections?

MR. MELNICOFF: Yes, Mr. Examiner. May I inquire the purpose of which this is offered?

MR. MILLER: The purpose for which this is offered, 75 hogs were loaded out from the Springfield Stockyards Company to the trucker whose signature appears on the particular receipt. I am referring to Complainant's Exhibit 80.

MR. MELNICOFF: Very well.

BY MR. MELNICOFF:

Q. Mr. Sherman, you say you obtained this at the Springfield Stockyards? A. I did.

Q. When? A. April 6th of this year.

Q. From whom did you obtain it? A. Mr. Rankin, superintendent of the stockyards company.

Q. Who is Mr. Rankin? A. Superintendent of the Stockyards Company at Springfield.

Q. What did you ask him for when you asked for these pieces of paper? A. Oh, stockyard releases, livestock releases, kept by them for the period of December 1st through October--December 1st of '55 through October of '56.

949 Q. And for everybody on that stockyard? A. Everybody on the stockyard.

Q. Did you get a great number of them or just these two? A. I got a pretty good sized box.

Q. Only one of which you used, is that right? A. The only ones that have been offered in evidence so far.

Q. Any changes or additions been made to these tickets from the time you received them? A. They are just exactly the way I received them.

Q. Of course, the marking Complainant's Exhibit 80, that wasn't on them when you got them? A. No.

Q. Who prepared these releases, as you call them? Take any one of them. A. This one was prepared by Mr. H. C. Harms.

Q. That is Exhibit 79? A. That's right.

Q. What you mean is H. C. Harms' name appearsthere? A. He is the man that released the hogs.

Q. I asked who prepared the ticket with the paper writing, did you see it prepared? A. No.

Q. So you don't know who prepared it? A. Mr. Harms signed it.

950 Q. Did you see him sign it? A. No, sir.

Q. All right. Was that all that was prepared by anybody on this exhibit, on this release? That is the whole release contained right there, isn't it? A. That is right.

Q. And the same thing is true of that one, by that one I mean 79? A. It was signed by the trucker that picked them up.

Q. What does that signature mean, what does that statement mean that appears to be N5700, the Exhibit 79 for identification, what does that mean? A. That is the truck license.

Q. And the same thing is true of N277? A. Yes, sir.

Q. How do you know that? A. From my long association with those, seeing them, knowing the procedure.

Q. For what state is that license number? A. That I wouldn't know, just the number, I think, now, this I don't know, I think it is Illinois.

Q. That is an Illinois license number? A. I think so, I am not sure. It is their license number.

951 Q. It could be something else?

MR. MILLER: Mr. Melnicoff, I can't hear your question.

BY. MR. MELNICOFF:

Q. That is the license number issued by the State of Illinois or is it some other number? A. I don't know what state but it is a license number.

Q. And the only thing we are concerned with is the matter that appears on the front? A. Not entirely, no, for instance, on that one, 79, it states the number of hogs that were released.

Q. You are relating to Exhibit 79 for identification? A. That is right.

Q. What are you talking about now, some notes that appear without any pattern or any particular context on the back, is that right? A. That is correct.

Q. Do you know who put those notes on there? A. Those are normally put on by the man who releases them to count them out of the pens.

Q. You didn't see them prepared? A. No, sir.

Q. And you don't know who put them on there? A. No, sir.

Q. And, as a matter of fact, it isn't a part of the exhibit itself, is
952 it? A. Yes, sir.

Q. Why is it on the back instead of the front? A. That is their procedure when they count them out.

Q. Isn't there someplace on the front to put all the required and necessary information? A. That is just their procedure.

Q. And I suppose we have a little different procedure on No. 80, is that true? A. He didn't put the time down.

Q. And what other thing is on it, the other figures, do you have any idea? A. Yes, 72 hogs out of pens 402 and 304 and three hogs out of 302.

MR. MELNICOFF: Mr. Examiner, I object to the admission in evidence of both Exhibits 79 and 80 on the grounds they haven't been identified or sponsored by a witness who is competent to testify. All this witness can testify to is that he did obtain them at a certain place but is he qualified to interpret, to explain them? Moreover, I don't see any relevancy of those exhibits to this proceeding at all. A more serious objection goes to the back and this demonstrates what is the danger and the harm in bringing in such evidence. Now, whoever drew up these releases or prepared the form for this official piece of paper, and we don't know who drew that up but I understand it is a printed form, an official form,

953 undoubtedly felt there was some need for all the information contained on there, however, somebody else decided they wanted to make some notes or memorandum on there. It seems to me the only thing which can properly be concerned at all is the matter that appears on the front and not on the back, which without an explanation is meaningless and has no meaning, the only explanation offered thus far by this witness is pure hearsay.

PRESIDING OFFICER BAIN: It is not pure hearsay. He has testified how it is generally done and I think he has sufficiently testified. Now, the objection of relevancy, if it is not connected up with some of the allegations on the complaint, it will not be used. Have you any other objection?

MR. MELNICOFF: None.

PRESIDING OFFICER BAIN: They are both accepted.

(Thereupon the documents heretofore marked as Complainant's Exhibits Nos. 79 and 80 were received in evidence.)

BY MR. MILLER:

Q. Now, as to 80, based on your familiarity with the procedure followed at the Springfield Stockyards in the release of hogs, will you interpret the data appearing on Complainant's Exhibit 80? A. This shows that H. C. Harms on December 1st, 1955, released to H. L. Sparks &

954 Company of Chapin, Illinois, 75 hogs and those hogs were in pens 402, 304 and 302. These 75 hogs were counted out, three of them out of pen 302, seventy-two out of Pens 402 and 304. They were received by D. Obert, truck license number N277 appearing immediately below the signature. This means that 75 hogs left that stockyards all at one time, otherwise it would have not been receipted for.

Q. Now, I believe you stated, Mr. Sherman, previously that the information appearing on the front side of this release, that is the information concerning the head count as originally put on the release by the owner of the hogs and then the release is given to the stockyards company for its use prior to the actual loading out of the hogs from the stockyards itself, is that correct? A. That is correct.

Q. Now, based on your familiarity with the procedure followed in the Springfield Stockyards, Mr. Sherman, what, if anything, happens when the number of hogs shown on the release does not correspond to the number of hogs actually counted out and released by the stockyards company? A. Knowing their operation I would say everything would come to an abrupt halt. They would make every effort to locate the required number of hogs if they could not find them, if they were not in the pens, it so states they would change their release and release only the number of hogs it shows. They
955 have a system at that stockyards, that is not a large yard as terminal markets go, during the day they will not let people who received hogs for sale leave the yards unless they have accounted for every hogs that has come in, everything that is sold, that is to be released out of that yard is penned, counted into pens and there is a record made of it that is kept in the office, stockyard company's office, and they check and recheck every hog there every day and they never let anything go out unless it corresponds with the check.

* * * * *

CROSS-EXAMINATION

BY MR. MELNICOFF:

Q. Mr. Sherman, this is about the second or it could be the third time you appeared on this stand with particular regard to the affidavit, is that right? Can you recall the previous testimony? A. Yes, sir.

Q. I suppose that you realize you are under the obligation to tell the truth about this affidavit each time you appeared? A. Yes, sir.

Q. I don't suppose the truth ever changes much, what was true
956 last Wednesday is probably true today? A. Yes, sir.

Q. And to the extent of your testimony given this morning, after hearing the testimony of Mr. Ischer, after having several days' time to think it over, I suppose that your testimony given this morning in view of an opportunity to consider it, you would still tell the truth this morning, I take it? A. Yes, sir.

Q. To the extent your testimony this morning disagrees with what you gave at a previous appearance on this stand in connection with this affidavit there would be some necessity on your part to explain it wouldn't there, to the extent your testimony disagreed with that you gave previously? A. I didn't disagree with that I gave previously.

Q. Are you certain about that? A. I think so.

Q. Did you review what you testified about last Wednesday before you testified this morning? A. I haven't the transcript, if that is what you mean.

Q. I didn't ask you whether you had the transcript. Did you review it or did you not? A. In my mind.

Q. Did you review it with anybody? A. No.

957 Q. You didn't compare any notes with anybody? A. Notes, yes, in particular about the time of arrival.

Q. Now, let's see if we can remember what happened last Wednesday. Fortunately we don't have the transcript, in your case it is just as well. Now, as I remember it, Mr. Sherman, when you first appeared on the stand here you very briefly and boldly showed it in evidence Exhibit 42, do you remember that, that is the affidavit? A. I identified it, yes, sir.

Q. You not only identified it you talked about it? A. Yes, sir.

Q. And you sponsored that in evidence? A. Yes, sir.

Q. You swore everything on there was the truth? A. Mr. Ischer swore it was true.

Q. You testified everything appearing on there was the truth as you got it? A. Yes, sir.

Q. Let me show you Respondents' Exhibit No. 1. Do you remember this, Exhibit No. 1? A. Yes, sir.

Q. Do you remember how that came into evidence? A. Yes, sir, you took it out of my hand and offered it in evidence.

Q. Where did I get it? A. Out of my hand.

958 Q. Where did you get it? A. I wrote it.

Q. Where did you get it in this courtroom, whom did you get it from? A. What do you mean?

Q. Did you carry it into this courtroom? A. That I don't know if I did or somebody else did.

Q. If somebody else carried it who was it that carried it in, somebody on your side of the table? A. Certainly.

Q. It could have been Mr. Miller? A. It could have been.

Q. It could have been Mr. Sands or -- A. (Interrupting) It could have been.

Q. (Continuing) -- Mr. McCoy? A. It could have been.

Q. Or Mr. Maxwell? A. Physically.

Q. Five people could have carried that four pages. Now, who was it carried in by? A. I told you I don't know who carried it in.

Q. Look at the number of that, it is Respondents' Exhibit No. 1, isn't it? A. Yes, sir.

959 Q. And the affidavit is Complainant's Exhibit 42? A. Yes, sir.

Q. Now, do you remember the circumstances under which Respondents' Exhibit No. 1 came into this record?

MR. MILLER: I fail to see the relevancy of this.

MR. MELNICOFF: It will get there.

BY MR. MELNICOFF:

Q. Do you remember the circumstances under which Respondents' Exhibit 1 came into this record? Let me refresh your recollection, it was I who asked for it, isn't that true? A. I believe you asked me if I had

had an interview.

Q. I didn't ask you that, you already told us you had an interview. That isn't it at all. I am asking you again do you recall how Respondents' Exhibit No. 1 came to be shown to you at the time it was--Wednesday last, and never mind looking at Mr. Miller, you look at me. A. Not thoroughly, no, I know it was asked for.

Q. It was asked for? A. Handed to me.

Q. I asked you for it? A. You took it out of my hand.

Q. I was cross-examining you at that time? A. I believe so.

Q. It was brought under my cross-examination, wasn't it? A. Yes,
960 sir.

Q. You didn't volunteer it? A. No, sir.

Q. I had to dig it out of you, didn't I? A. You didn't have to do much digging.

Q. As I recall it you and several others went to a brief case and did a lot of digging, isn't that right? A. It was in a brief case.

Q. And you had to go look for it, isn't that right? A. I don't remember whether I went to look for it or somebody else looked for it.

Q. Let's see what you do remember. Isn't it true you left that stand and walked over to that table and rummaged around in the brief case and came up with that piece of paper which is Respondents' Exhibit No. 1, isn't that true, or is not, and I want you to think about it, it is important. A. I don't remember, I think I did.

Q. You don't remember, a week ago you don't remember leaving that stand, walking over and picking up and looking at a brief case to find that piece of paper you don't remember. If that is your answer I will be glad to accept it. Q [sic]. I have looked at a lot of pieces of paper, whether I went over and picked up that particular one --

Q. (Interrupting) You don't remember going over to Springfield and picking up 79 and 80. A. I said I went to Springfield and got a whole
961 box full.

Q. And out of that whole box you remember 79 and 80? A. Yes, sir.

Q. And you don't remember walking across this courtroom, do you? A. Not specifically.

Q. And yet you testified on many occasions here as to the sanctity of your memory. Very well, we will take that answer. But you do recall, I assume it was I who asked you to produce that paper? A. That is right.

Q. And it was produced pursuant to my request and introduced here as a respondents' exhibit? A. Yes, sir.

Q. And moreover it was finally reproduced here as Respondents' Exhibit 1-A, isn't that right? A. Yes, sir, yesterday or the day before.

Q. And we have agreed that Respondents' Exhibit 1-A contains certain delineations and marks which do not appear on Respondents' Exhibit 1, isn't that true? A. One or two words, I believe.

Q. And we have agreed, I think, that the only reason that those -- we have said hereto, No. 1-A had some matters or lines, words, that don't appear on Exhibit No. 1, Respondents' 1. Is there some fault in the

962 reproduction process, is that true or isn't it? A. That is correct.

Q. And yet you permitted me to have it a whole week, you allowed me Respondents' 1, knowing that it did not contain everything that was on the actual piece of paper on which you made those notes?

MR. MILLER: I object to this line of questioning because it is grossly unfair.

MR. MELNICOFF: Grossly unfair. We are going to bring the truth into this, I don't care who gets hurt and at this time I seriously doubt this man is telling the truth and I respectfully --

MR. MILLER (interrupting): This is grossly unfair on cross-examination. Counsel for the respondents has purposely misrepresented the facts in this situation.

MR. MELNICOFF: Show me one place.

MR. MILLER: At the time respondents were questioning Mr. Sherman with respect to notes Mr. Sherman made at Springfield he asked Mr. Sherman whether or not he made notes, he asked Mr. Sherman whether those notes were in the courtroom. At that time we looked for the notes and informed counsel for respondents we could not find the original notes and had a Thermofax copy of those notes and would give this to counsel for respondents, as soon as we found the original notes we would

963 give him the original notes which is what we did.

PRESIDING OFFICER BAIN: There has been a great "to do" here about there being a difference on Exhibits 1 and 1-A. I am going to state just exactly what that difference is. There is a difference on one line of one page, that is on the fifth line of writing from the bottom of the first page, the exhibit was written in pencil and it has been changed to this extent in ink, the word "each" in pencil has been scratched out, that is the only pencil part that has been scratched out. There has been put in ink in the left-hand margin the figure "10" and the word "points". I mentioned the scratch out of the word, and on the right-hand in ink there has been added the letter "s" to the pencil word "point" and in ink the word "on" and in ink the letters "R.R.S.". That is the only change that was shown on one exhibit that did not appear on the other and the reasons for its not showing have been stated before. The meaning changed there was that in pencil it had been stated "Hogs are shipped by rail from each point", that was the original wording. With the ink changes it is this way, "Hogs, ten points are", and that word I can't figure out, "are shipped by rail from points on R.R.". Now, before we make a big "to do" about the change of meaning let's remember the change.

MR. MELNICOFF: I am not making any point whether one, two or three words or effect is changed at all. I am pointing out --

964 **PRESIDING OFFICER BAIN (interrupting):** You made that point a number of times that there has been a difference in the exhibit. That is the only exhibit.

MR. MELNICOFF: I agree, I pointed it out.

PRESIDING OFFICER BAIN: Nobody pointed it out until I did.

MR. MELNICOFF: I pointed out several changes that were due to the fault of the reproduction, that I have said, it is true we never read the precise words.

PRESIDING OFFICER BAIN: That is the several changes you have been making such a big "to do" about.

BY MR. MELNICOFF:

Q. In any event, the original paper that you showed me, the paper you originally showed me as being the notes that were described as a copy are Respondents' Exhibit 1, isn't that true? A. That is correct.

Q. That was given to me last Wednesday when I asked for it on cross-examination? A. A week ago Wednesday.

Q. And yesterday there was produced -- I don't think you produced it -- Respondents' Exhibit 1-A? A. That was the day before yesterday.

Q. All right. A. I believe you took it home with you.

965 Q. Whenever it was. Now, in any event we are finally agreed Respondents' 1-A are the notes that you made conducting the interview with Mr. Ischer, is that right? A. That is correct.

Q. There is no question about that? A. No.

* * * * *

Q. Then it is your testimony that both Exhibits 1-A and 42, both Respondents' Exhibit 1-A and Complainant's Exhibit 42 existed together simultaneously, is that right? A. On this Exhibit 1-A --

Q. Contemporaneously with it or shortly thereafter when you made it, Exhibit 42 came in existance, is that right? A. Exhibit 42 was made after that.

Q. How long after? A. I don't remember just exactly how long a time elapsed but on the same day.

966 Q. Well, later in the day, how much later? A. I just got through -- I don't remember how much later, it was later in the day.

Q. You said that the -- you state on the bottom of Exhibit 1-A that these notes, or rather, the above information was related to you on the morning of February 1, '57, isn't that true, that is what the exhibit says anyhow? A. The morning of February 1, 1957, that is correct.

Q. Now, you say shortly afterwards Exhibit 42 came in existence? A. It was after this was made that that was --

Q. (Interrupting) Does the reading of the last paragraph of 1-A refresh your recollection to any extent as to when 42 was prepared? A. Not as to time by the clock, no.

Q. Was it noon time? A. That was done in the morning of the making of these notes.

Q. Was 42 in existence at noon of February 1st of '57? A. I couldn't say, I doubt very much if it was.

Q. Was it in existence between 12 noon and 1:00 p.m.? A. Mr. Melnicoff, I told you I don't know the time by the clock, I know it was after this, after my notes.

Q. Do you recall testifying, talking about the clock a little bit, the 967 last time you were here on this affidavit -- strike that.

Do you remember whether or not you made any testimony, offered any testimony here last week regarding this affidavit concerning whether or not either Exhibit 1-A or 1, the notes or the affidavit were read to Mr. Ischer? A. Whether I stated they were read to Mr. Ischer?

Q. Either one of them. A. I stated the affidavit was read to Mr. Ischer.

Q. Did you say anything about the notes being read to Mr. Ischer? A. Mr. Ischer took the notes himself and read them to Mr. Sparks.

Q. You didn't hear that talk? A. I don't believe I heard that conversation although he called me back, Mr. Sparks wanted to talk to me and I discussed them with him.

Q. Specifically what piece of paper do you now say you discussed with Mr. Sparks? A. Both of them, Respondents' Exhibit 1-A and Complainant's Exhibit 42.

Q. You discussed both of them with Mr. Sparks? A. I did.

Q. Well, let's see, 1-A are your notes, is that right? A. That is correct.

968 Q. You used 1-A in preparing 42? A. I told Mr. Ischer that I wanted to get some of the fact he had given me down in affidavit form.

Q. You answered your question, suppose you answer mine. You used 1-A in preparing 42? A. Partially, some of the information was in there.

Q. All right. Maybe you will answer my question, answer in my way, try it my way. You used 1-A in preparing 42, is that right? A. Just as I described it, that is the only way I can answer it.

Q. You only have one way to answer the question? A. Yes.

Q. To what extent does 42 contain information that 1-A does not? A. To what extent does 42 contain information?

Q. That 1-A does not. I am taking your answer now, I have to. A. There is a specific transaction mentioned in Complainant's Exhibit 42 which I don't believe is specifically mentioned in the notes.

Q. Would you read and make sure of that, I would like you to be positive for once.

MR. MELNICOFF: I should ask for a short recess, Mr. Examiner, while he is reading the notes. Let the record show there is a secession.

969 PRESIDING OFFICER BAIN: I see he is on the third page now. We are waiting for him to read them.

A. There is no specific reference to that one specific incident.

BY MR. MELNICOFF:

Q. You say 42 has a specific reference to what that does not appear in 1-A? A. A transaction involving Hunter Packing Company.

MR. MILLER: Would you read that back, please?

(Question and answer read.)

BY MR. MELNICOFF:

Q. No. 42 has got the packing company and 1-A doesn't have that? A. I didn't say that, I said a specific transaction, Hunter Packing Company is mentioned in the notes but not any specific transaction. It says in the notes Hunters, previous to that, "Hunter's business is high enough to take care of trucking if trucking is prepared by Chapin."

Q. What is in 42, that is not in 1-A? A. I just got through telling you a specific transaction.

I didn't say a specific reference to Hunter, I said a specific transaction involving Hunter.

Q. Using your words "specific transaction involving Hunter" that appears in 42, is that right? A. Yes, sir.

970 Q. It doesn't appear in 1-A? A. I think a reading of both statements would show that.

Q. Is there any reference at all in 1-A to Hunter? A. Yes, sir.

Q. Does it concern that transaction mentioned in 42? A. Not specifically, no, sir.

Q. But does it refer to that transaction in one way or another? A. Hunter's name in the notes.

Q. In 1-A in connection with that specific transaction which Hunter's name mentioned in 42? A. No, sir. "When sending bills to the various buyers such as Hunter, Swift, Independent, Swift, Trunz, Merkel, Belvedere and so forth, the bills show the number of head, style, weight, price and amounts. No scale tickets are sent with the invoices."

Q. Then that reference in 1-A to Hunter had no reference to the Hunter situation set forth in 42, no reference at all? A. Not to the specific transaction.

Q. Any reference to Hunter in a transaction that is reflected in 42? A. It goes on to say, "Mr. Ischer stated that the packers are not particularly interested in scale tickets unless requested. Hunter does want scale tickets."

971 Q. I want to make certain that 1-A in reference to Hunter, for example, has no connection with the reference to Hunter in 42, is that right? A. It is the same packing company.

Q. That is the only relation between the two, between the two references in 1-A and 42 to Hunter, is that right? A. The only references, I just read what it said in the notes about Hunter.

Q. The reference in 1-A to Hunter has no connection with Hunter in 42, is that right? A. Only inasmuch as the information about adding weights and Hunter requesting tickets and I wanted a specific transaction in the statement.

Q. Are there two different transactions noted, one in 1-A and one in 42? A. There are no specified transactions mentioned in 1-A, Respondents' Exhibit 1-A.

Q. Is there any connection between the reference in 1-A, the letter, and reference to 42 about Hunter? A. Only as I just explained.

Q. You consider that two separate instances or not? A. In 1-A there is no specific instances.

Q. Well, is it fair to say in 1-A you are referring to the same transactions appearing in 42 except it is set forth more specifically in 42 than in 1-A? A. I referred in Complainant's Exhibit 42 to a specific

972 instance of adding weight which was mentioned in Respondents' Exhibit 1-A.

Q. But aside from the fact you don't specify 1-A, we are talking about the same thing in 42 insofar as Hunter is concerned? A. The Hunter transaction mentioned in 42 would be a specific instance of adding weight such as was mentioned in Respondents' Exhibit 1-A.

Q. That is right, we are agreed on that. A. A specific instance.

MR. MELNICOFF: Look at that (indicating).

PRESIDING OFFICER BAIN: It is not in evidence. Very well, I will look at the blackboard. I see what you mean, Mr. Melnicoff. That was a humorous instance and the record wouldn't show it unless I stated it.

BY MR. MELNICOFF:

Q. What other instance do you have in 1-A that does not appear in 42? You say it does not appear in 42. A. Mr. Ischer has stated in Complainant's Exhibit 42 they invite farmers in to watch us weigh their hogs on a scale tested by the State of Illinois. That is not in the notes.

Q. I see. Where did you get that information that appears in 42 that doesn't appear in Exhibit 1-A? A. What I just read?

973 Q. Yes. A. From Mr. Ischer at the time of the preparation of the statement.

Q. It has nothing to do with the weighing? A. "We invite the farmers in to watch us weigh their hogs".

Q. That appears in 1-A, right? A. No, sir, "our scales are tested by the State of Illinois."

Q. That appears in what? A. Complainant's Exhibit 42.

Q. It doesn't appear in No. 1, is that right? A. I don't think so, I overlooked it if it does.

Q. You spent about a minute reading so I will accept your reason there, your answer. Is there anything else different between the two? A. Yes, right at the start of the statement, "As general manager I make all the bills or invoices which are sent to the various buyers". That is not in the notes. Then again, on page 2 of Complainant's Exhibit 42, Mr. Ischer stated that "I stated I made all the bills and invoices. Actually I or my assistants make out these bills to the buyers, I don't always do it personally".

Q. All right. Anything else? A. Mr. Ischer's address isn't in Respondents' Exhibit 1-A, it is in his statement.

974 Q. Where did you get the information of his address? A. From Mr. Ischer.

Q. At the outstart of your interview the morning of February 1, 1957? A. I don't -- I got that information from Mr. Ischer when I started to prepare this statement.

Q. Did you write it down anywhere? A. On the statement only.

Q. You didn't put in there? A. I don't see it in there.

Q. All right. That means you didn't put it in, isn't that right? A. That's right.

Q. Anything else? A. In the statement Mr. Ischer gave as Complainant's Exhibit 42 he stated "when we buy hogs from the farmers we always give good, honest weights, our scales are accurate and have Spinks balancing weights", that, I don't believe, appears in the Respondents' Exhibit 1-A.

Q. You just now read -- that is your answer after reading the Exhibit 1-A and reading 42 side by side? A. I don't know, I have overlooked it if it was there, I don't see it.

Q. No. 42 is a well-written continous narrative document, isn't that

975 right? A. I don't know how well written it is. It is an affidavit.

Q. Permit me to say it is a well-written document so you may say, you answer the question and it will appear it was I who said well written, you will be truthful as well as modest. So 1-A is the series of notes, isn't that true? A. I was making these on my lap on a pad of paper.

Q. And extemporaneously what Mr. Ischer spoke you wrote down? A. I was asking questions and he was writing and I was writing.

Q. No particular continuity to it? A.Partially, yes, I was trying to obtain a picture of how the business was operated.

Q. Was the purpose of your notes to preserve and not to convey information, is that right? A. They were made mostly to convey information to me.

Q. That is true, but to preserve it for you? A. To keep them.

Q. And Exhibit 42 is meant to convey information to tell anybody who reads it what it purports to say? A. Exhibit 42 is what it says it is, an affidavit.

Q. It tends to tell somebody something? A. That's right.

976 Q. So there is every reason to say that Exhibit 1-A would be prepared in the form that it was, just as it happened, so to speak? A. I wasn't preparing an affidavit, Respondents' Exhibit 1-A.

Q. Yet you say when you talked to Mr. Sparks you read both of them, is that right? A. Yes, sir.

Q. Why would you read notes to him which are disjointed, show no sequence and have a number of delineations when you have before me a nice clean copy? A. I did not have Complainant's Exhibit 42 before me at the time I discussed with Mr. Sparks Respondents' Exhibit 1-A.

Q. You didn't? A. That was not in existence yet.

Q. It wasn't? A. No,sir.

Q. You spoke to Mr. Sparks when, now? A. I spoke to him twice on that same day, the first time about the notes.

Q. When was that? A. About the operation of his business.

Q. When? A. Apparently in the morning, from the notation I have on the last page.

977 Q. Apparently in the morning? A. Yes, sir.

Q. You have no independent recollection--I know you anticipate the answer but at least give me the courtesy of asking the question, I like it better that way. You say you had two conversations with Mr. Sparks, is that right? A. Yes, sir.

Q. One in the morning of February 1, 1957? A. Apparently it was in the morning because it was in the morning that I got this according to what the notes said itself.

Q. That is the only recollection you have is what the notes say? A. As to the specific time, I talked to him about the notes first because at the time I talked to him about the notes the affidavit was not in existence.

Q. And then you talked to him again when? A. After Mr. Ischer had read the affidavit to him?

Q. And you don't know what time that was? A. Later in the day.

Q. How much later? A. I told you before I don't remember.

Q. You can't give us any idea? A. I was interested in getting it done and over with, what time of day it was I don't know.

978 Q. You still say two conversations? A. Yes, sir.

Q. And the first time the notes were read to Mr. Sparks and the second time -- A. (Interrupting) The affidavit was read, the first time I discussed it, read part of the notes, I don't believe I read all of them, Mr. Ischer previously read them.

Q. Did you hear Mr. Ischer read them over? A. Not the notes, I said Mr. Ischer had read them to him and we discussed it over the telephone.

Q. You say there were two telephone conversations? A. That's correct.

Q. And you can't place the time? A. There was two of them, one before the other, the one on the notes before the affidavit.

Q. I want you to answer two questions and two questions only. You cannot place the time of day that either one of those conversations took place, is that right? A. I can place the first one in the morning because the notes were taken in the morning, it so states on the notes. Whether the other one took place in the afternoon or later in the morning I just don't remember.

Q. Well, you have answered the second question. I was going to ask you, comparing the two pieces of paper and ask whether you could

979 remember in relation to each other when the conversations were had with Mr. Sparks. You say you can't do that now. You don't remember? A. Except I know I talked to him about the notes first and later another conversation or another phone call I talked to him about the affidavit.

Q. That is right. Now, Mr. Sherman, when you testified about this and you had on direct examination only Exhibit 42 before you, do you remember that, it wasn't too long ago? You remember that, don't you? A. Yes, sir.

Q. You can remember this building, can't you? A. Some things.

Q. Yes, sure. You can remember the record, too, and at that time you only told us about your conversation with Mr. Sparks about No. 42, isn't that right? A. If I did it was probably because at that time that is all I was asked about.

Q. If you did, you don't remember, do you? A. I remember one time or another I talked about both conversations, whether on cross or direct, I don't remember.

Q. You don't remember that? A. I think I told both of them both times.

Q. You don't remember -- both of them on both times. How could you talk about No. 1-A when it wasn't produced, when I produced it on

980 cross-examination, how did you talk about it on direct? A. I think on direct I made some mention that I made notes.

Q. You think you did? A. I think I did.

Q. Well, we will find it as soon as the transcript company gets it to us. We haven't got it, unfortunately. So you talked about that No. 1 the only time -- pardon me, No. 42, you only told us about 42 on direct examination and it wasn't until after I got into cross that you talked about the notes on 1-A? A. I believe on direct examination I was asked if I had an interview with Mr. Ischer and I said I had and I think I told all about them.

Q. You think, you don't know, you don't remember? A. If I remember right I did.

Q. Do you remember and do you remember right? A. I think I do.

Q. Can you give me an answer? A. I do.

Q. You do remember you testified about the notes on direct examination and you talked to Mr. Sparks, so you said on direct examination, you do remember or you don't? A. I do.

981 Q. You did? A. I did.

Q. And that you testified on direct examination about both the Exhibit 42, the affidavit, and you talked about that, too, and told us, too, you spoke to Mr. Sparks about that? A. May I have that again?

Q. You testified on direct examination that you testified to a conversation with Mr. Sparks with regard to the affidavit as well as the notes, on both of them on direct examination? A. I know in my testimony, whether it was direct or cross, I told about both conversations. Now, as to separating, after sitting three days on the stand, and telling you exactly which question I answered, I can't do it, but I do believe I testified about both conversations, that I know.

* * * * *

982 ROBERT G. McCOY

was recalled as a witness, and having been previously sworn by the Presiding Officer, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. MILLER:

Q. Will you state your full name? A. Robert G. McCoy.

983 Q. Are you the same Mr. McCoy that testified earlier in this proceeding? A. I am.

Q. I believe you testified, Mr. McCoy, that early in 1957 you made an audit of the books and records of Midwest Order Buyers at Chapin, Illinois, is that correct? A. Yes, sir, that is correct.

Q. When did you first go to Chapin, Illinois? A. I first went to Chapin, Illinois, to start this work on January 23, 1957.

Q. Did you arrive at the office of the Midwest Order Buyers at Chapin, Illinois, on January 23rd? A. Yes, sir, I did.

Q. Will you relate what took place upon your arrival at the Midwest

Order Buyers' office at Chapin, Illinois?

MR. MELNICOFF: I object to this as improper rebuttal. This witness has here before testified in connection with this matter, I don't see -- that is not proper rebuttal at all.

PRESIDING OFFICER BAIN: I believe the exact date on which he got there was not established before.

MR. MELNICOFF: I appreciate that, I am not complaining about that. My objection is this will start off all over again.

984 PRESIDING OFFICER BAIN: In view of some of the respondents' testimony that was permissible here.

MR.MILLER: Well, I will rephrase the question and make it more specific.

BY MR. MILLER:

Q. Upon your arrival at the Midwest Order Buyers' office at Chapin, Illinois, did you meet Mr. George Ischer? A. Yes, sir, I did, I went to the office with Mr. Smith, our accountant from the Chicago office, and we were met right inside the front door by Mr. Ischer who was expecting us and he seemed to know Mr. Smith and they shook hands and Mr. Smith introduced me.

Q. How do you know, Mr. McCoy, you arrived at Chapin, Illinois, on January 23, 1957? A. I checked my expense voucher for travel for that period and it shows that I went to Chapin, Illinois, on that date.

Q. Now, directing your attention to February 1, 1957, the date on which Complainant's Exhibit No. 42 was signed, I believe you have that document before you? A. Yes, sir.

Q. Do you know who prepared that document?

MR. MELNICOFF: Mr. Examiner, I object to that question and all questions along that line. You will remember that Mr. Sherman appeared on the stand earlier and testified with regard to the Complainant's Exhibit 42 and Respondents' Exhibit 1-A. At that time when 42 came into

985 the record Mr. McCoy's signature appeared on the bottom there as a witness, subsequent to that time, to Mr. Sherman's appearance, the

testimony with regard to this 42, Mr. McCoy appeared, he was not asked one single question regarding this affidavit. Now, if there is any attempt by the government to support 42 with any testimony about Mr. McCoy at this time, it is too late, that testimony should have been offered at the time he took the stand after I had cross-examined Mr. Sherman. This is no time, this is not rebuttal.

PRESIDING OFFICER BAIN: I believe the respondents offered testimony that one of these documents was substituted for another, that testimony had not come in when Mr. McCoy was here before.

MR. MELNICOFF: I beg your pardon, we offered the thing in reference to the notes, and never 42, we never contended any was substituted for 42. I say again, the witness should have testified at that time, they had before them and in this record my opposition to 42 and in my cross-examination of Mr. Sherman and also this record with Exhibit No. 1 which, of course, isn't any different than that in 1-A which came in later. This is no time for that kind of evidence to come in with Mr. McCoy.

PRESIDING OFFICER BAIN: At the time Mr. McCoy had testified
986 before I heard no testimony that one document was substituted for another when it was handed to Mr. Ischer, I have heard that sort of testimony now. I think it is quite proper rebuttal. The objection is overruled.

MR. MILLER: May I further state, Mr. Examiner, in the event future objections are made, since Mr. McCoy first testified, there has been testimony in the record concerning where this document was prepared and what happened to the document after it was prepared and my line of inquiry is directed primarily toward that testimony.

PRESIDING OFFICER BAIN: All right, sir.

THE WITNESS: I believe the question was --

BY MR. MILLER:

Q. (Interrupting) Do you know who prepared the affidavit? A. The affidavit was prepared by Mr. Sherman.

Q. Where? A. In my presence in the office where we worked at the Midwest Order Buyers in Chapin, Illinois.

Q. Is this the office you and Mr. Sherman were using which is located across the hall from Mr. Ischer's office? A. Yes, sir, it is.

Q. And I believe you stated you were present when this affidavit was prepared? A. Yes, sir, I was.

987 Q. Were you present from that time, Mr. McCoy, until Mr. Ischer signed the statement? A. Yes, sir, I was.

Q. And did Mr. Ischer sign the statement in that office? A. Yes, sir, he signed the statement in that office at the desk where Mr. Sherman was working. I was working at the other desk.

Q. Now, after this document was prepared by Mr. Sherman and before it was signed by Mr. Ischer, did Mr. Sherman read the affidavit to Mr. Ischer? A. Yes, sir. Mr. Sherman read the affidavit to Mr. Ischer. He handed the affidavit to Mr. Ischer and Mr. Ischer read the affidavit, he then made his statement that it had been changed and he would have to call Sparks and he took the statement, the affidavit to the other room to call Sparks and a few minutes later he called to Sherman and told him Sparks wanted to talk to him also and Sherman went into the other room and in a few minutes Sherman came in and Mr. Ischer came back in and then Ischer signed the statement there in the office where I was working.

Q. It is your testimony, Mr. McCoy, after the affidavit was prepared and before it was signed by Mr. George Ischer the affidavit was given by Mr. Sherman to Mr. George Ischer to read? A. Yes, sir, right in front of the desk where Sherman was working and read the statement, read the affidavit then, as I said, made the statement he would have to call Sparks

988 again.

* * * * *

CROSS-EXAMINATION

BY MR. MELNICOFF:

Q. Your testimony is confined, as I understand it, to the affidavit, Complainant's Exhibit 42, is that right? A. Well, I was asked the date that I arrived.

Q. I mean the exhibit, in connection with this affidavit matter, you testified nothing except Exhibit 42, is that right? A. I believe I have testified only to Exhibit 42, just now, and the date of my arrival.

* * * * *

JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),

Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,

Respondents.

Vol. III of 4 vols.

Pages 591 thru 702

United States Court of Appeals
For the
District of Columbia Circuit
FILED APR 27 1961

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Comp. Ex. 1 Co. Ex. 1 Jt #12

Date	Sold to	Shipped From	Hogs No. Head	Invoice Weight	Buy Weights	Reweigh Weights (Palmer)	Off truck Weights (Palmer)	Weight Difference	Weight Adjusted	[illegible]
12-1-55	[illegible]	Barney	130	30138	29730			400		400
"	"	2 Pts	162	26760	26580	26440		320 on Reweigh		320
"	"	Springfield	250	51845	51845			0	0	0
"	Horne	6 Pts	491	90915	89185 155		—	1830		[illegible]
"	Lykes Bros [illegible]	Quincy	121	28620	28420	28450		170 on Reweigh		170
"	"	2 Pts	131	27510	27410	27250		260 on Reweigh		[illegible]
* "	Swift N.S.Y.	3 Pts - Springfield 167	428	146005	144245	—	144310	1700		[illegible]
12-2-55	A.F. [illegible]	Palmyra	229	56810	56465			345		
"	Sandefur Unit	2 Pts	138	58640	56800		56590	1840		
"	Heil	8 Pts	651	148740	145800		143800	2940		
"	Val Decker	8 Pts	468	119825	118510		114490	1315		
"	Klingman	[illegible]	171	28850	28350	—	—	500		[illegible]
"	[illegible]	2 Pts	139	28270	28070			270		[illegible]
"	"	Quincy	153	30180	30180			0		
	[illegible]	Palmyra	154	27850	27660			190		[illegible]
"	[illegible]	10 Pts	529	151780	149335			2445		
"	H. Fischer [illegible]	Barney	144	29745	29345			400		[illegible]
"	[illegible]	2 Pts	136	27600	27600			0		
"	Tennessee Pkr	6 Pts	78	30040	[illegible]			[illegible]		[illegible]
"	"	2 Pts	265	56445	[illegible]			[illegible]		
12-5-55	Hunter	4 Pts	344	79475	78475			[illegible]		[illegible]
	Tennessee Pkr	4 Pts	98	30710	30345			365		[illegible]
	"	Mt Sterling	256	57035	55[illegible]	[illegible]	[illegible]	[illegible]		[illegible]

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Date	Sold to	Shipped from	Hogs No. Head	Invoice Weight	Buy weights		Borough Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Audited	Weight Added
12-5-55	Home	3 Pts	232	60415	60005		–	–	410		410
* "	Swift	3 Pts + Youngstown	179	58420	57680		—	56280	740		740
"	E F Vrooman	5 Pts	239	61050	60450		—	—	600		[illegible]
"	Figge & H	Dallas City	143	29300	28860		28930	—	370 on Borough		370
"	Val Decker	3 Pts	386	83490	82690		–	78700	800		800
"	Sykes Bros	2 Pts	253	57600	57065		56840	—	760 on Borough		[illegible]
"	"	Decatur	120	25850	25375	235	–	–	475		475
"	Eswald & Kern	Baring	138	27665	27340		27465		400 on Borough		400
"	Klagman	2 Pts	159	28490	27855		28040		450 on Borough		450
"	E. Kahn & Sons Co.	7 Pts	500	112685	111185				1500		1500
"	H. Fischer	2 Pts	268	57550	57000			55650	550		550
12-6-55	Hunter	4 Pts	347	80280	79030			77780	1250		[illegible]
"	Home	Medora	120	31000	31000			—	0	0	[illegible]
"	Val Decker	2 Pts	142	30055	29755			28500	300		300
"	Kingan	11 Pts	654	143735	141735		–	–	2000		2000
* "	Tennessee	5 Pts + Bushnell 38	82	29475	29175		—	—	300		[illegible]
"	Swift	4 Pts	207	58150	58150		–	56820	0	0	–
12-7-55	Home	5 Pts	193	47655	47085	2,90	—	–	570		570
"	Tennessee	5 Pts	251	56960	56030		–	–	930		[illegible]
* 12-8-55	Belvedere	4 Pts + Bushnell	173	29760	29660		–	–	100		[illegible]
* "	Home	[illegible]	444	113830	113755				75		[illegible]
"	Figge & H	2 Pts	140	27900	27505		27500		450 on Borough		[illegible]
"	"	Baring	139	28340	27475		27440		450 on Borough		[illegible]
"	E. F. Vrooman	2 Pts	120	26690	26690		–	–	0	0	[illegible]

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	Date	Sold to	Shipped from	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights [illegible]	Off Truck Weights of [illegible]	Weight difference	Weight deducted	Weight added	
	12-5-55	Tobin	Springfield	214	57880	57880	—	—	0	—	—	
	✓	✓	Madison	89	25055	25035	—	—	20		20	
*	✓	Val Decker	2 Pts Springfield 2-2	363	75730	75130			600		600	
	✓	Kenny	Chapin	169	25515	24740	25265		250 on Reweigh		250	
*	✓	Independent	8 Pts + Spgfld 48	125	53740	53570		51790	230		230	
	12-9-55	Tennessee	38 Pts	251	56075	55075	—	—	500		500	
	✓	Val Decker	Bushnell	122	25790	25490	—	—	300		300	
	✓	Figge H	Dallas City	143	29110	28[illegible]	28710		400 on Reweigh		400	
	✓	Lytle Bros	2 Pts	293	58480	57540	57730		750 on Reweigh		750	
	✓	✓	Quincy	130	29150	28720	28950		200 on Reweigh		200	
	✓	C.F. Vossman	Carthage	124	27470	27170	—	—	300		300	
	✓	Kenny	Barnes	142	28955	28655			300		300	
	✓	✓	Barry	135	27255	26880			375		375	
	✓	Grenhoff mash	2 Pts	248	59945	59965			20	20		
	✓	Klayman	2 Pts	176	31120	30325	30595		525 on Reweigh		525	
	✓	H Fisher	Carthage	125	27180	26880	—	—	300		300	
	12-[illegible]-55	Neil	9 Pts	623	138375	136025	—	133955	2350		2350	
*	✓	Wilson & Co · Hyde Pk	5 Pts-Spg-19	66	27420	27220		—	200		200	
*	✓	Swift NSY	14 Pts Bu 94	835	216390	214080			2310		2[illegible]0	2 hogs 9410
	✓	Belvidere	10 Pts Remus 5 Spg	126	30180	30180			0	0	—	
	✓	Grenhoff mash	2 Pts	118	26530	26300	26210		330 on Reweigh		330	
	✓	Tobin	2 Pts	216	52770	52370	52340		430 on Reweigh		430	
	✓	✓	2 Pts	110	30065	30065	—	—	0	0		
	✓	Figge H	Quincy	124	25320	24945	24970		350 on Reweigh			

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Date	Sold to	From	No. Head	Weights	Weights	Weights of [illegible]	Weights of [illegible]	Difference	deducted	added
12-10-55	Knickel	Quincy	116	25060	24890	–	–	170		[illegible]
–	Horne	5 Pts	238	53735	54915	–	–	820		820
12-12-55	Val Decker	4 Pts	385	82040	80505	–	–	1535		1535
–	Tobin	2 Pts	95	26190	26090	25960		230 on Cavanagh		230
–	–	2 Pts	115	30550	30550 205	–	–	0		0
–	Sykes	2 Pts	124	28440	28185	28190		250 on Cavanagh		250
–	–	Chapin	115	27595	27365	–	–	230		230
–	–	3 Pts	137	26850	26530	26450	–	400 on Cavanagh		400
–	–	2 Pts	125	27390	27240	27150	–	240 on Cavanagh		240
–	Horne	6 Pts	537	123460	121760	–	–	2700		2700
* –	Swift	6 Pts - Springfield 23	183	57305	55860	–	55920	1445		1445
–	Independent	5 Pts	68	29950	29650	–	–	300		300
–	C F Vassman	Palmyra	125	27850	27595	–	–	255		255
* 12-13-55	Independent	Pts - Springfield 14	130	53580	53260	–	–	320		320
–	Fuggy ?H	2 Pts	131	26200	25855	25880	–	320 on Cavanagh		320
–	N. Fisher	3 Pts	269	58615	57640	–	–	975		975
–	C F Vassman	4 Pts	246	57945	57320 +125	–	–	625		625
–	Val Decker	9 Pts	355	80235	80235		77290	0	0	0
–	Kingan	5 Pts	273	56815	55715	–	–	1100		1100
12-14-55	C F Vassman	Peoria	105	28200	28200	–	–	0		0
* –	Val Decker	5 Pts + Bushnell 128	404	90340	89340		85900	1000		1000
* –	Horne	6 Pts + Peoria 178	326	75120	74550	–	–	570		570
–	Swift	9 Pts	411	114350	113220	–	110500	1130		1130
–	Birnstein	3 Pts + Bushnell 86	113	26715	26695		24875	20		20

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Date	Sold to	Shipped from	Hogs in Load	Ottumwa Weights	Buy Weights	Reweigh Weights (if known)	Off truck Weights (if known)	Weight Difference	Weight deducted	Weight added
12-14-55	E. Kahn & Sons	9 Pts	539	117005	115475			1530		1530
12-15-55	Tobin	4 Pts	122	57375	57315			60		60
✓	✓	2 Pts	125	27220	26750	27080		140 on Reweigh		140
✓	Hormel	4 Pts	263	58650	57725	—	—	925		92
✓	Figge Jr	Dallas City	125	25790	25595	25490		300 on Reweigh		30
✓	Val Decker	3 Pts	285	58645	57995	—	55900	650		650
✓	C F Kuesner	2 Pts	129	29600	29420	—	—	180		180
✓	Little Rock Pkg Co	Anchor 4.60 Sid 19 Spgfld 23	102	27495	27495	—		0	0	0
* ✓	Independent	3 Pts Spgfld 18	54	24040	23550		22710	490		490
✓	Tyken	Baring	141	29510	28965	29230		280 on Reweigh		280
✓	✓	Baring	115	26315	25975	26100		215 on Reweigh		215
12-16-55	✓	Quincy	121	27450	27220	27090		360 on Reweigh		36
✓	Sinckel	Media	121	25410	25410	—	—	0	0	
✓	Tobin	Quincy	107	28610	28510	28360		250 on Reweigh		250
✓	Val Decker	Baring	137	28605	27655	28405	27000	200 on Reweigh		20
✓	Tovrea	Springfield	338	74790	74790	—	—	0		0
✓	H Fischer	Baring	136	28795	28620	—	27875	175		175
✓	Neil	7 Pts	518	116975	116975	—	—	200		2[illegible]
✓	Swift Moultrie Ga	Americus	124	29090	29060	28730		360 on Reweigh		360
✓	✓ ✓	Chapman	100	31595	31295	—	—	300		30
✓	✓ ✓	3 Pts	92	29340	28925	—	—	415		4
✓	Tobin	Carthage	96	26905	26905	26710		195 on Reweigh		4
✓	Figge Jr	3 Pts	136	26545	26545			0	0	0
✓	✓	3 Pts	132	25635	25635			0	0	0
✓	Kleyman	6 Pts	160	26760	26430			320		52

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Date	Sold to		[illegible]	[illegible]	[illegible]	[illegible]		[illegible] (of [illegible])	[illegible] (of [illegible])	Weight Difference	Weight [illegible]	Weight added	
* 12-17-55	Swift	[illegible] S J	[illegible]	[illegible]	[illegible]	[illegible]			101570	1912		[illegible]	2 days
✓	Jackson Pkg co		3 Pts	[illegible]	[illegible]	[illegible]				0	0	0	
✓	〃		Palmyra	118	26915	26915				0	0	0	
✓	Hormel		6 Pts	360	86980	85765				1215		1215	
✓	Reelfoot	Union City	3 Pts	108	25135	24935				200		200	
✓	Leeds	Alabama	6 Pts	139	24020	24020				0	0	0	
✓	Tobin	2	2 Pts	105	31730	31730				0	0	0	
✓	Swift	Moultrie	Ga. [illegible]	107	26680	26280				400		400	
✓	Merkel		Quincy	145	30995	30995				0	0	0	
* ✓	Belvedere	[illegible]	Bushnell 2[illegible] Peoria 2[illegible]	130	28920	28835				85		85	
12-19-55	E Kahn		10 Pts	1094	231395	228395				3000		3000	
✓	Figge - H		2 Pts	129	26360	26020		26000		360 on Reweigh		360	
✓	Tobin		2 Pts	111	25900	25795		25700		200 on Reweigh		200	
✓	〃		Dallas City	125	27710	27465		27510		200 on Reweigh		200	
✓	C F Vissman		2 Pts	137	31370	31035 [illegible]				335		335	
* ✓	[illegible]	5[illegible] +	Springfield [illegible] Bushnell 121	595	147340	145625				1715		1715	
✓	[illegible]		Springfield	278	55625	55625				0	0	0	
✓	Merkel		Springfield	283	61245	61245				0	0	0	
✓	Hunter		6 Pts	406	88810	87630			85970	1180		1180	
* ✓	[illegible]	3[illegible]	[illegible] 101 Bush 36	152	63445	63345				100		100	
12-20-55	Tennessee		2 Pts	240	56000	54815				1185		1185	
✓	Figge		2 Pts	158	30690	30110				580		580	
✓	Kingan		Berry	270	55565	54765				800		800	
✓	Wilson [illegible]		8 Pts	147	58445	58045				400		400	

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Date	Sold to	Shipped to	Hogs No. Head	Invoice Weight	Buyer Weights	Through Weights if Shown	Off truck Weights if Shown	Weight Difference	Weight deducted	Weight added
12-21-55	Cohen	2 Pts	118	28480	28250	28230		250 on Through		250
〃	Kahn	8 Pts	524	116535	115535			1000		1000
〃	C F Vissman	Jacksonville	130	30115	30115			0	0	0
〃	Swift N.S.Y.	8 Pts	262	86280	84935		83320	1345		1345
〃	Hormel	12 Pts	732	163585	163585			0	0	0
〃	Crown Detroit	6th Rec 28	113	27325	27345			20	20	
12-22-55	Kingan	30th Rec	236	60300	59105			1195		1195
〃	Tennessee	3 Pts	236	49385	48785			600		600
〃	Fugge	Decatur	148	29800	29335			465		465
〃	H Fischer	2 Pts	136	29445	29245			200		200
〃	C F Vissman	3 Pts	106	30650	30520			130		130
〃	Swift N.S.Y.	7 Pts	197	59715	58725			990		990
〃	Wm Tickleman Bros	2 Pts	230	52690	52175			515		515
〃	Val Decker	7 Pts	405	84770	83770			1000		1000
12-23-55	H Fischer	Bronx	130	28680	28680			0	0	0
〃	Fugge	2 Pts	145	28960	28485			475		475
〃	Cohen	Medina	131	31755	31420	31530		225 on Through		225
〃	〃	Dallas City	136	29945	29625	29740		205 on Through		205
〃	〃	2 Pts	132	29440	29270			170		170
〃	Frenz	Barry	226	48660	48210			450		450
12-24-55	Cohen	Quincy	254	55280	55280			0		0
〃	Swift Montreal	2 Pts	120	31070	31070			0		0
〃	〃 〃	2 Pts	115	25020	25020			0		0
〃	〃 〃	Chapman	115	25585	25585			0		0

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weight	Buyers Weights	Reweigh Weights of Hogs	Off truck Weights of Hogs	Weight Difference	Weight deducted	Weight added
12-24-55	Market	4 Pts	256	54825	54805	54190		615 on Reweigh		615
"	Eitzen Pkr	Jacksonville	90	27860	27680			180		180
"	Klayman	Quincy	152	25950	25660			290		290
"	Tiering	2 Pts	124	28450	28450			0		
"	"	2 Pts	129	28030	28030			0		
"	"	2 Pts	128	26895	26895			0		
12-26-55	Wilson Wright Kc	5 Pts Bw 36	130	57970	57970			0		
"	Little Rock	Rushville	124	29985	29985			0		
"	Tiering	2 Pts	142	28505	28505	28450		55 on Reweigh		55
"	"	Quincy	129	28845	28845			0		
"	Market	Chapman	277	55845	55845			0		
"	C F Vossman	2 Pts	122	27515	27215			300		300
* "	Swift Ngy	11 Pts Bw 4	403	113800	112205			1595		1595
12-27-55	Val Decker	7 Pts	534	114450	112330			2120		2120
"	C F Vossman	2 Pts	140	30725	30525			200		200
"	Tobin	2 Pts	111	30870	30515	30670		200 on Reweigh		200
* "	Hormel	3 Pts Bw 118	256	57490	56990			500		500
"	Figge	2 Pts	143	27400	26681	26550		450 on Reweigh		450
"	White	2 Pts	128	27785	27380	27510		275 on Reweigh		275
"	"	2 Pts	114	27210	27040	26880		330 on Reweigh		330
"	Ondiger [illegible]	4 Pts	74	28720	28115			605		[illegible]
12-28-55	Hanhoff Sach	Baring	140	28970	28570			400		[illegible]
"	Belvedere	3 Pts Bw 60	143	26890	26890			0	0	0
"	C F Vossman	Hugginsville	130	30840	30840			0	0	0

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Date.	Sold to	Shipped From	Hogs No. Head	Weight shown on Invoice	Buy Weights		Weight Reweigh (if shown)	Off truck Weight (if shown)	Weight Different	Weight Deducted	Weight added
12-28-53	Horne	3 Pts	253	57400	56275	+ 5[illegible]0 + 120 + 130			1125		1125
〃	Morgan	7 Pts	648	149280	147780				1500		1500
〃	Oundiff	5 Pts	133	52730	51125			50760	1605		1605
〃	Frigge	Muggerville	136	26085	25965		25685		400 on Reweigh		400
〃	〃	2 Pts	147	28470	27920		28020		450 on Reweigh		450
* 〃	Swift N.S.Y.	10 Hog 14-	425	116240	114900				1340		1340
〃	Kahn	8 Pts	936	204660	201855				2805		2805
12-29	Harry	Bring	135	28055	27555		27855		200 Rew		200
〃	〃	2 Pts	144	30355	30255		30655		200 Rew		200
〃	Frigge	2 Pts	141	26780	26455		26360		420 Rew		420
〃	Tobin	Jf	112	28340	28240				100		160
〃	〃	3 Pts	113	28175	27900		28025		150 Rew		150
〃	Wm Zuckerman	2 Pts	108	26160	25860				300		300
〃	〃	P al	130	29320	29075		29120		200 Rew		200
〃	〃	Oa	117	27495	27095		27160		335 Rew		335
〃	〃	4 Pts	127	29125	28925				200		200
〃	H Fischer	Gr	149	30695	30395		29699		605 Rew		605
〃	Horne	8 Pts	589	113965	112460				1505		1505
〃	Oundiff	13 Pts	235	82190	80570				1620		1620

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Date	Sold to	Shipped From	Hogs On. Head	Invoice Weights	Buy Weights	Rumagh Weights Off Shrink	Off truck Weights Off Shrink	Weight Difference	Weight deducted	Weight added
12-30-55	Trimoy	2 Pts	128	26390	26390	26205		185 on Rumagh		185
✓	Klayman	3 Pts	116	27400	27100	—	—	300		300
✓	Ivy Pkg Co. Knoxville Tenn	2 Pts	123	28400	28175	28215		185 on Rumagh		185
✓	Sykes	Quincy	127	28415	28415	28515		100 on Rumagh	100	
✓	✓	Barry	127	27105	26710	27185		on Rumagh 0	0	0
✓	Merkel	4 Pts	139	30740	30525	31340		400 on Rumagh		400
✓	Figge-H	Quincy	143	28670	28025	28270		400 on Rumagh		400
12-31-55	Tobin	Madison	109	27130	27130 230	—	—	0	0	0
✓	✓	4 Pts	[illegible]	28115	28115	28060		55 on Rumagh		55
✓	✓	Quincy	99	25075	25025	24725		350 on Rumagh		350
✓	Tierney	2 Pts	157	29980	29680	29550		430 on Rumagh		430
✓	✓	2 Pts	147	28580	28580	28380		200 on Rumagh		200
✓	Merkel	Quincy	240	49985	49985	49350		635 on Rumagh		635
✓	Klayman	Quincy	153	26530	26170	26130		400 on Rumagh		400

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Date	Sold to	Shipped From	Hogs No. Head	Weight shown on invoice	Buy Weights	Weight Reweigh (if shown)	Off trucks Weight (if shown)	Weight Difference	Weight deducted	Weight added
1-2-56	Home Pkg Co	[illegible]	81		17365 +40					
		Golden	9		2400					
		Bowen	9		2480					
		Decatur	25		6075					
		Palmyra	59		17210					
		Griggsville	13		3330					
		Jacksonville	36		9810					
		Barry	116 +55		27760					
			347	87155	86330	–	–	825		825
1-2-56	Swift & Co	Mendon	5		2080					
		Dallas City	15		6540					
		Carthage	1		360					
		Rushville	15		6365					
		"	2		700					
		Chapin	30		14240					
			68	30520	30285	–	–	235		235
1-2-56	Harry Fischer Pkg Co	Griggsville	104							
		Jacksonville	34							
			138	30790	30590	–	–	200		200
1-2-56	Frosty Morn Pkg Co (Tennessee Pkrs.)	Chapin	134		29675					
		"	80		19185					
	+105	Jacksonville	41		9995					
			255	59355	58855	–	–	500		500
1-2-56	Figge Hutwelker & Co	Palmyra	56							
		Quincy	73							
			139	27070	26600	26720	–	350 on reweigh 470 on Buy Weights		350 470
1-2-56	Neuhoff - Nashville Tenn	Baring Mo	31 +145		7355					
		Macon Mo	56		11340					
		Palmyra Mo	33		9345					
		Quincy	104		25295					
		Palmyra	15		3300					
			239	57010	56635	–	–	375		375
1-2-56	White Provision Co	Barry	134	28090	27380			710		710
		Chapin	127	26575	26310			265		265
1-2-56	C.F. Vissman Pkg Co	Dallas City	66		14885					
		Mendon	44		9575					
		Carthage	18		3915					
		Bowen	79		17480					
		Sheldon	38		8630					
		Rushville	7		1560					
		Astoria	11		2545					
			263	59190	58590			600		600

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Date	Sold to	Shipped From	Hogs No. Head	Weight shown on invoice	Buy Weights	Reweigh Weights (IF SHOWN)	Off Truck Weights (IF SHOWN)	Weight Difference	Weight Deducted	Weight added
1-3-56	C.F. Vissman Co	Griggsville	134	29945	29745	–	–	200		200
1-3-56	Tobin Pkg Co	Dallas City	233	50890	50585	50460		430 on Reweigh 305 on Buy		430 305
1-3-56	Wilson Co. [illegible]	Bowen	41		17715					
		Quincy	30		10525					
			71	28460	28240	–	–	220		220
1-3-56	Val Decker Pkg Co	Mt. Sterling	122		27330					
		Golden	83		18190					
		Chapin	51		11000-350					
			256	57575	56520	–	–	1055		1055
1-3-56	Home Pkg Co	Barry	192		37395					
		Martinsburg	47		9580					
		Pittsfield	41		7845					
			280	55620	54820	–	–	800		800
1-3-56	Swift & Co. N.S.Y.	Barry	73		20135					
		Martinsburg	26		7965		27426			
		Mason	27		5590					
		Palmyra	104		24285		29400			
		Griggsville	54		10600					
		Mt Sterling	69		25745		26170			
		Jacksonville	99		24510		31490			
		Quincy	135		29785		29120			
		Barry	137		29615		28500			
		Decatur	113		28245		27720			
		Carthage	132		29480		28510			
		Bushnell	35		9350					
		Astoria	86		20405		29000			
		Rushville	128		29445		29350			
		Bowen	61		13675					
		Dallas City	59		14605		27500			
			1333	325415	321420		314126	3995		3995
1-3-56	Schultz Packing Co (clean up)	Chapin	25							
		Palmyra	18							
		Quincy	61							
		Jacksonville	15							
		Peoria	21							
			140	24060	24060	–	–	0		0
1-3-56	Belvedere (clean up)	6 Points	115	28990	28990	–	–	0		0

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Date	Sold To	Shipped From	Hogs No. Head	Weight shown on invoice	Buy Weights	Rempel Weights (If shown)	Of truck weights (If shown)	Weight Difference	Weight Deducted	Weight added
1-4-56	Val Decker	Macomb	133	28430	28030	—	—	400		400
1-4-56	Frigge-Hutmacher	Palmyra	67		12965					
		Quincy	84		15050					
			151	28535	28015	—	—	520		[illegible]
1-4-56	Swift & Co NSY	Barry	22		6515		28500			
		Quincy	17		8155					
		Palmyra	43		14335					
		Dallas City	54		21345					
		Bowen	19		9565		30170			
			155	60705	59915	—	58670	790		[illegible]
1-4-56	Home	Quincy	111		24430					
		Barry	24		5030					
		Baring	54		11810					
		Palmyra	50		10945					
		Griggsville	27		4570 +110					
		Decatur	59		13270					
		Jacksonville	80		16660					
		Carthage	97		23395					
		Bowen	24		6030					
		Rushville	116		24220					
		Astoria	20		4240 +160					
		Dallas City	37		7590					
		Golden	16		3095					
		Chapin	84		17980					
			799	178005	175265	—	—	2740		[illegible]
1-5-56	Frigge-Hutmacher	Barry	82		16200					
		Quincy	46		9380					
			128	25800	25580	25450		350 on Rempel		[illegible]
1-5-56	Tobin	Dallas City	84		18550					
		Nauvoo	38		9035 +55					
			122	27640	27585	—	—	55		[illegible]
1-5-56	Val Decker	Bowen	42		9125		25200			
		Carthage	71		14980					
		Golden	9		2025					
		Chapin	126		26365					
		Palmyra	53		11640					
		Mendon	57		11350					
		Jacksonville	28		5620					
			383	83235	81115	—	—	2120		[illegible]

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Date	Sold to	Shipped From	Hogs No. Head	Weight shown on Invoice	Our Weight	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight deducted	Weight added
1-5-56	Home Pkg Co.	Baring	51		13745					
		Jacksonville	11		4420					
		Chapin	17		7445					
		Decatur	112		24470 +175					
		Astoria	41		9200					
		Rushville	20		5570					
		Griggsville	44		10495					
		Barry	2		1075					
		Quincy	80		21030					
		Mt Sterling	14		4450					
			392	102790	101600	—	—	1190		1190
1-5-56	Trunz Pork Stores	Baring	138	28040	27420	—	—	620		620
1-6-56	Merkel Inc	Dallas City	122	27700	27430	27520		180 on Reweigh		180
1-6-56	Fogge-Hutmacher	Quincy	85		16205					
		Barry	49		9655					
			134	26320	25860	25970		350 on Reweigh		350
1-6-56	I. Klayman	Quincy	107		17970					
		Palmyra	51		9430					
			158	27850	27400	—		450		450
1-6-56	TRUNZ	Baring	128	28695	28135	28315		380 on Reweigh		380
1-6-56	Home	Bowen	19		4420					
		Carthage	89		20980					
		Golden	92		20292					
		Jacksonville	33		6560					
		Baring	10		2625					
		Arenzville	91		19390					
		Jacksonville	26		5865					
		Ebingersville	66		15370					
		Pittsburg	67		14410					
			493	111836	110636	—	— —	1200		1200
1-6-56	[illegible]	Barry	8		2995					
		Quincy	67		16345					
		Palmyra	26		9025					
		~~Chapin~~	7		5515					
		~~Rushville~~	4		3370					
		~~[illegible]~~	20		9665					
		~~Bowen~~	2		7025					
		Jacksonville	7		2995					
		Dallas City	4		1795					
		Golden	6		2650					
		Carthage	13		5205					
			164	57985	57785	—	—	200		200

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Date	Sold to	Shipped from	Hogs No. Head	Weight shown on Invoice	Buy Weights	Reweigh Weights (IF SHOWN)	Off truck Weights (if shown)	Weight difference	Weight deducted	Weight added
1-6-56	Hail Pkg co	Astoria	52		11605					
		Rushville	70		15085					
			122	27235	26690	26399		845 on reweigh		845
1-7-56	Figge-Hutwelker	Chapin	133	26100	25700	–	–	400		400
1-7-56	I. Klayman	Chapin	122	26355	26055	–	–	300		300
1-7-56	TRUNZ	Mendon	213		41990					
		Bowen	23		6469					
		Mt. Sterling	34		6415					
			284	55465	55265	–	–	200		200
1-7-56	C.F. Vissman	Mt. Sterling	132	30280	29160	–	–	1120		1120
1-7-56	Home	Mt. Sterling	134	28720	28020	–	–	700		700
1-7-56	LYKES BROS, INC	Quincy	245		57450					
		Palmyra	22		5000					
		Griggsville	66		13540					
			333	76290	75900	75880		410 on reweigh		
1-7-56	Swift NSY	Dallas City	16		6560					
		Jacksonville	11		4575					
		Carthage	23		6570					
		Bowen	11		3425					
		Golden	13		5390		25920			
		Chapin	25		12040		11840			
			99	38820	38560		37760	260		260
1-7-56	White - Atlanta Ga	Palmyra	110	26350	26350	25910		440 on reweigh		440
1-7-56	Swift Moultrie Ga	Chapin	119	26155	25955	–	–	200		200
1-7-56	Neuhoff - Nashville	[illegible]	30		5880					
		Golden	170		52145					
			200	58005	58025	–	–	20	20	

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Date	Sold to		[illegible]	[illegible]	[illegible]	Buyer weight	Reweigh Weight (EP SHOWN)	[illegible] Weight ([illegible])	Weight Difference	Weight deducted	Weight added
1-9-56	Swift	N.S.Y.	8 Points	313	88685	87705		87210	980		980
1-9-56	Belvedere		48 & Pieces	[illegible]	25960	25960	[illegible]	[illegible]	0		0
1-9-56	Frigge-Hutteller		3 Points	146	28920	28630	28470		450 on reweigh		450
1-9-56	Tobin		2 Points	117	27545	27085	—	—	460		460
1-9-56	Tobin		Dallas Cty	120	26420	26115	26240		180 on Reweigh		180
1-9-56	Kingan		2 Points	132	29260	28960	—	—	300		300
1-9-56	Val Decker		6 Points	249	57050	56550	—	—	500		500
1-9-56	Hunter		4 Points	486	87200	85700		84740	1500		1500
1-9-56	Hormel		4 Points	326	79205	78280 +120	—	—	925		925
1-10-56	Swift N.S.Y.		4 Points	73	21560	21040		20840	520		520
1-10-56 *	Hormel		4 Points & Bushell 35H	663	144710	142755 +235	—	—	1955		1955
1-10-56	Frigge Hutteller Co		3 Pts	156	30700	29925	29610		1090 on reweigh		1090
1-11-56	Val Decker		7 Points	393	86820	85820	—	—	1000		1000
1-10-56 *	Independent		3 Points & Bunch 1/25H	536	24390	24025	—	23545	365		365
1-11-56	Val Decker		3 Points	387	87595	86495	—	—	1100		1100
1-11-56	Emge Pkg Co		2 Points	138	30275	29825 +250	—	—	450		450
1-11-56	Frigge Hutteller Co		2 Points	149	28210	28005	27760		450 on reweigh		450
1-11-56	Hormel		7 Points	365	85250	84550	—	—	700		700
1-11-56	Jackson		2 Points	125	28125	27675 +250	—	—	450		450
1-11-56	Kingan		4 Points	280	57900	56950 +150	—	—	950		950
1-11-56	Swift	N.S.Y.	5 Points	456	53805	53050 +235	—	51100	755		755
1-12-56	Trunz		2 Points Cy.	125	27520	27180	27320		200 on Reweigh		200
1-12-56	Trunz		2 Points	124	27150	26805	26900		250 on reweigh		250

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Date	Sold To	Shipped From	Hogs Number	[illegible] Weight	[illegible] Weight	[illegible] Weights (Yellow)	Off truck Weights (Yellow)	Weight Difference	[illegible]	[illegible]
1-12-56	J J Felin	Berry 3 Points	225	[illegible]	[illegible]	53590		[illegible] on Rumaugh		[illegible]
1-12-56	Fugg-Hartwelker	2 Points	152	28465	[illegible]	—	—	450		450
1-12-56	Home	10 Points	753	166609	166410 +250	—	—	2500		[illegible]
1-12-56	Swift Way	9 Points	303	81160	81135	—	78410	1025		1025
1-12-56	Independent	3 Points 2 Central 13 hd	98	29455	28955	—	28495	500		500
1-13-56	I Klagman	Chapman	113	25180	24980	—	—	200		200
1-13-56	J J Felin	Berry	253	53900	[illegible]	53400		500 on Rumaugh		500
1-13-56	J J Felin	Quincy	101	24225	24225	24070		155 on Rumaugh		155
1-13-56	Tobin	Denton	121	27700	27355 +115	—	—	[illegible]		[illegible]
1-13-56	Tobin	Medina	264	58955	58955	58780		175 on Rumaugh		175
1-13-56	Home	3 Points	398	86255	84950 +115	—	—	1305		1305
1-13-56	Reit	3 Points	409	90165	88150	—	87285	2015		2015
1-13-56	Finey	Palmyra	259	54910	54910	—	—	0	0	0
1-13-56	Tim	Dallas City	269	58490	58050	57940		550 on Rumaugh		550
1-13-56	Fugg-Hartwelker	Quincy	146	28500	28290	28050		450 on Rumaugh		450
1-13-56	[illegible] Gladstone Baltimore style	Quincy	120	26650	26160	26450		200 on Rumaugh		200
1-14-56	I Klagman	Chapman	139	24990	24990	—	—	0		0
1-14-56	Finey	Chapman	109	25765	25605	—	—	160		[illegible]
1-14-56	Marbel	2 Points	136	28225	28245	28210		15 on Rumaugh		15
1-14-56	Tobin	3 Points	111	25630	25630	25370		260 on Rumaugh		[illegible]
1-14-56	Glasheen	Dwyer	125	26580	26330	—	—	250		250
1-14-56	Swift Way	13 Points 2 Days	651	181750	179855	—	176070	1895		1895
1-14-56	Belvedere	3 Points 4 Central 34 hd	96	26810	26810	—	—	10		10

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight deducted	Weight added
1-16-56	Swift NSY	4 Points	75	29245	28220	—	28250	1025		1025
1-16-56	Emge	Barry	132	28005	27605	—	—	400		400
1-16-56	C.F. Vissman	Rushville	124	28560	28360	—	—	200		200
1-16-56	Independent	5 Points	67	27260	26730	—	26395	830		830
1-16-56	Frigge-Kutnecker	Dallas City	140	28160	27700	27760	—	400 on Reweigh		400
1-16-56	Frigge-K	2 Points	136	26550	26085	26150	—	400 on Reweigh		400
1-16-56	Hormel	12 Points	769	169940	167745 +205	—	—	2195		2195
1-17-56	Independent	7 Points	301	88805	86540	—	—	2265		2265
1-17-56	Frigge-K	2 Pts	144	28265	27740	27965		400 on Reweigh		400
1-17-56	Lohman	Quincy	100	27930	27650	27730		200 on Reweigh		200
1-17-56	Swift NSY	9 Points	585	138150	136410	—	133460	1740		1740
1-17-56	Hormel	5 Points	522	116375	114545 +120 +125	—	—	1830		1830
1-17-56	Hunter	4 Points	412	87880	86630	—	85190	1250		1250
1-18-56	Swift NSY	Golden	102	27800	27680	—	27450	120		120
1-18-56	Swift NSY	5 Points	288	67690	67415	—	65600	275		275
1-18-56	Independent	4 Pts	236	57675	55780	—	—	1835		1835
1-18-56	Evart	2 Pts	114	27390	27090	27190		300 on Reweigh		300
1-18-56	C.F. Vissman	3 Pts	109	30145	29835 +160	—	—	310		310
1-18-56	Frigge & K	2 Pts	135	26630	26400	26230		400 on Reweigh		400
1-18-56	Hormel	10 Pts	604	146900	144730 +150 +150 +20	—	—	2170		2170
1-19-56	Swift NSY	13 Pts	816	202760	200110	—	195780	2650		2650
1-19-56	Independent	2 Pts	390	89255	86910	—	86390	2345		2345
1-19-56	Hormel	5 Pts	387	83145	81745 +90 +110	—	—	1400		1400

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Date	Sold to	Shipped From	Hogs on Load	Invoice Weight	Buy Weights	Reweigh Weights (If Shown)	Off truck Weights (If Shown)	W. Diff	Weight Lost	Weight Added
1-19-56	Figge-H	2 Pts	131	26350	25965	25760		390 on Reweigh		390
1-19-56	Figge-H	2 Pts	132	26710	26320	26320		390 on Reweigh		390
1-19-56	Tobin	Meridian	126	25830	25610	25600		230 on Reweigh		230
1-19-56	Little Rock Pkg Co	Chapin	107	27495	27295	—	26[illegible]	200		200
1-19-56	Cudahy-San Diego	3 Pts	123	26350	26315	26150		200 on Reweigh		200
1-19-56	Cudahy-Phoenix	Dallas City	119	25635	25455	25395		240 on Reweigh		240
1-20-56	Mission Pkg Co. San Antonio	Chapin	128	28905	28655	28705		200 on Reweigh		200
1-20-56	Lay Pkg Co Knoxville Tenn	2 Pts	122	28770	28415	28590		180 on Reweigh		180
1-20-56	I Hagman	Chapin	113	27025	26655	26800		225 on Reweigh		225
1-20-56	I. Hagman	2 Pts	152	27075	27075	26380		695 on Reweigh		695
1-21-56	Figge-H	2 Pts	139	28115	27715	27715		400 on Reweigh		400
1-20-56	Cudahy-Salt Lake	Meridian	126	28695	28450	28495		200 on Reweight		200
1-21-56	Swift & Co-2 Days	several Pts + Springfield 39 hd	581	169490	167490	—	162550	2000		2000
1-21-56	Hunter	9 Points	638	137710	136775		135285	935		935
1-21-56	Irving	Barry	134	28610	28260	28410	—	200 on Reweigh		200
1-21-56	Irving	Palmyra	260	56530	56045	56130		400 on Reweigh		400
1-21-56	Tobin	2 Pts	106	25575	25575	25390		185 on Reweigh		185
1-21-56	Mission	Dallas City	255	55215	54965	54742		475 on Reweigh		475
1-21-56	Merkel	Decatur	130	29255	29255	—	—	0	0	0
1-21-56	Merkel	Chapin	244	53890	53420	53490		400 on Reweigh		403
1-21-56	Belvedere	4 Pts Bushnell 33 hd	90	24340	24340	—	—	0	0	0
1-21-56	Rowland-Cincinnati	4 Pts Bushnell 54 hd	164	25285	25285	—	—	0	0	0
1-23-56	Home	4 Pts	391	79430	77880	—		1550		1550

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight deducted	Weight added
1-23-56	[illegible] - San Diego	Dallas Cty	123	27240	27085	26980		260 on Reweigh		260
1-23-56	Cudahy - San Diego	Palmyra	118	27995	27680	27795		200 on Reweigh		200
1-23-56	Figge - H	2 Pts	128	25760	25585	25385		375 on Reweigh		375
1-23-56	Tobin	Chapin	123	28900	28600	—	—	300		300
1-23-56	Tobin	Decatur	103	26370	26165 +45	—	—	205		205
1-23-56	C.F. [illegible]	2 Pts	92	26025	25825	—	—	200		200
1-23-56	Hunter	11 Pts	833	181580	178330		175950	3250		3250
1-23-56	Independent	6 Pts	197	56620	55330		54925	1290		1290
1-24-56	Coast	Decatur	115	25340	25175	25240	—	100 on Reweigh		100
1-24-56	Coast	3 Pts	137	29200	28750	29155		145 on Reweigh		145
1-24-56	Dougherty	Palmyra	131	29190	28655	29060		130 on Reweigh		130
1-24-56	Cudahy San Diego	2 Pts	121	28630	28430	28570		120 on Reweigh		120
1-24-56	Independent	2 Pts	123	27505	26805	—	26615	700		700
1-24-56	Cudahy Phoenix	6 Pts	273	57380	56980	56960	—	420 on Reweigh		420
1-24-56	Swift Ch S Y	10 Pts [illegible]	267	81225	81160 +275		78800	65		65
1-24-56	Hunter	Chapin	130	28200	27325	—	27360	875		875
1-25-56	Coast	Chapin	109	26375	26075	26365	—	10 on Reweigh		10
1-25-56	Coast	Quincy	122	28200	27970	28100	—	100 on Reweigh		100
1-25-56	Figge-H	2 Pts	141	27180	26725	26760		420 on Reweigh		420
1-25-56	Hunter	6 Pts	526	114650	112635	—	112440	2015		2015
1-25-56	Swift Ch S Y	5 Pts	363	84710	83795 +230		81650	915		915
1-25-56*	Independent	[illegible]	220	55555	54825		53625	730		730
1-25	John Morrell - Ottumwa	4 Pts	221	53995	53995	—	52670	0 65		[illegible]
1-25	Belvedere	4 Pts & [illegible]	140	27660	27825	26510	26510	1150 on Reweigh		[illegible]

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh Weights (if shown)	Different Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
1-26-56	Hunter	5 Pts	614	139060	136725	430		134740	2335		2335
1-26-56	Cudahy Phenix	Chapin	253	56175	55770		—	—	455		455
1-26-56	Cudahy San Diego	3 Pts	127	28535	28535		28140		395 on Reweigh		395
1-26-56	Coast	Mendon	238	55235	55000		—	—	235		235
1-26-56	Daugherty	Quincy	132	27710	27395	425	—	—	315		315
1-26-56	Daugherty	Palmyra	114	26770	26325		26620		150 on Reweigh		150
1-26-56	Tierney	Macon	127	28165	27955		28015		150 on Reweigh		150
1-26-56	Tierney	Palmyra	139	27870	27400		27670		200 on Reweigh		200
1-26-56	Tierney	Baring	125	26215	25700		26065		150 on Reweigh		150
1-26-56*	Independent	7 Pts & Springfield 274	188	58445	57220		—	56180	1025		1025
1-26-56	Swift NSY	4 Pts	83	28750	28320		—	27820	430		430
1-27-56	Frigge-H	Quincy	139	27240	27020		26920		420 on Reweigh		420
1-27-56	Market	Mendon	127	28510	28400		—	—	110		110
1-27-56	Market	Dallas City	135	29680	29345		29480		200 on Reweigh		200
1-27-56	Market	2 Pts	126	25530	25415		25280		250 on Reweigh		250
1-27-56	Cudahy Phenix	2 Pts	141	29950	29935		29650		300 on Reweigh		300
1-27-56	Cudahy Phenix	2 Pts	129	28535	28260		28335		230 on Reweigh		230
1-27-56	I Klayman	Chapin	144	26160	25960		—	—	200		
1-27-56	I Klayman	Quincy	121	26510	26230		26390		120 on Reweigh		120
1-27-56	Wilson & Co. KC	5 Pts & Brookfield 46 [illegible]	324	112315	110315		—	—	0	0	—
1-27-56	Tierney	2 Pts	137	28600	28450		—	—	150		150
1-28-56	Tobin	2 Pts	131	30055	30055		—	—	0		—
1-28-56	Tobin	Chapin	121	27660	27660		—	—	0		0
1-28-56	Tierney	2 Pts	132	25055	24645		24830		225 on Reweigh		225

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Date	Sold to	Shipped From	Hogs No. Head	[illegible] Weights	Buy Weights		Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Adjusted	Weight Added
1-28-56	Armour	F[illegible]	136	28050	28050		27560		490 on Reweigh		490
1-28-56	Market	Chapman	135	29315	27225		29155		160 on Reweigh		160
1-28-56	Fuqua H	Chapman	146	29535	29085		—	—	450		450
1-27 & 28-56*	Swift N.S.Y.	Several Pts 2 Springfield 32 hd	861	215525	212965	160	—	207170	2560		2560
1-28-56	Home	Rushville	254	58985	57595		—	—	1390		1390
1-28-56	Belvedere	Yards or Bushnell 44	127	26625	26625		—	—	0		0
1-30-56	Swift N.S.Y.	10 Pts	387	95745	94540		—	—	1205		1205
〃	Independent	4 Pts	74	23635	22825		—	22795	810		810
〃	Hunter	7 Pts	644	139690	138100		—	135360	1590		1590
〃	Tobin	Dallas City	121	29030	28855		28790		240 on Reweigh		240
〃	Fuqua	2 Pts	133	26140	25660		25740		400 on Reweigh		400
〃	Cudahy San Diego	Bunney	115	26630	26585		26400		230 on Reweigh		230
〃	〃 〃	〃	121	28065	27715	110	—	—	350		350
	Home	3 Pts	256	57005	56260	+25 +20			745		745
1-31-56	Daugherty	Barry	127	28065	27830		27865		200 on Reweigh		200
〃	〃	Bunney	117	26810	26650		26560		250 on Reweigh		250
〃 *	Home	7 Pts 2 Springfield 5 hd	404	86300	84690	4050			1610		1610
〃	Swift	7 Pts	243	[illegible]	[illegible]			66100	960		960

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Date	Sold to	[illegible]	[illegible]	[illegible] Weight	[illegible] Weight		[illegible] Weight	Off Truck Weight	Weight Difference	Weight Deducted	Weight Added
2-1-56	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			21995	110	110	
* ✓	Swift reg	[illegible]	[illegible]	[illegible]	[illegible]			27900	285		285
✓	Tobin	5 Pts	217	[illegible]	[illegible]		5[illegible]130	—	[illegible] on Rough		300
2-2-56	Horne	7 Pts	638	144190	142240		—	—	1950		1950
✓	Tobin	2 Pts	117	28160	28175		28010		150 on Rough		150
✓	Croat	2 Pts	129	29865	29900		29725		150 on Rough		150
✓	✓	Baring	126	29630	29575		29480		150 on Rough		150
✓	✓	Chapin	133	30175	29710	+265			465		465
✓	Independent	9 Pts	277	85270	83390			83570	1880		1880
✓	Swift n.s.y.	2 Pts	111	27995	27695				300		300
✓	Stinny	Baring	140	29905	29320		29605		200 on Rough		200
✓	Fugge-H	Gunning	134	26850	26390		26460		390 on Rough		390
2-3-56	Keil	5 Pts	505	112300	111195			108710	1105		1105
✓	Mitchel	Chapin	245	53595	52730	+410	53145		450 on Rough		450
✓	Stinny	Baring	243	57900	57180		57660		240 on Rough		240
* ✓	H.I. Ind.	[illegible] Bushell	135	55300	53750			53430	1550		1550
✓	Horne	7 Pts	366	83960	82770	+400 135			1090		1090
2-4-56	Tobin	2 Pts	129	28115	28[illegible]						
✓	Stinny	2 Pts	237	52645	52645		52390		255 on Rough		[illegible]
✓	Fugge-H	2 Pts	139	27120	26720				400		[illegible]
✓	H.I. Ind.	4 Pts	89	29905	29505				400		400
✓	Marshal	2 Pts	272	56220	55655	+340 −25			565		565
* ✓	Swift	[illegible]	264	83955	83195				760		[illegible]

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Date	Sold to		Shipped From	Hogs Purchased	Invoice Weight	Buy Weights		Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight deducted	Weight added
2-6-56	[illegible]		Dallas Cty	[illegible]	[illegible]	[illegible]	120			[illegible]		240
✓	Merkel		2 Pts	132	29090	28715				375		375
✓	Hormel		4 Pts	344	25740	25160	345 140			580		580
✓	A. I. Ind.		10 Pts	290	80230	78620			77450	1610		1610
✓	Hunter		2 Pts	247	57790	56450			55940	1340		1340
2-7-56	Kingan		7 Pts	521	116490	114595	240 215 405	145 250		1895		1895
✓	Figge-H		2 Pts	139	27245	26820		26845		400 on Reweigh		425
✓	Belvedere		4 Pts	86	25320	25320			23210	0	0	0
✓	A. I. Ind		14 Pts	579	146200	143185			141045	3015		3015
2-8-56	Kingan		11 Pts	621	139235	137135	120 60 45 40			2100		2100
✓	Swift		7 Pts	224	56690	55820			54720	870		870
✓	Figge-H		2 Pts	140	27680	27390		27260		420 on Reweigh		[illegible]
✓	Dougherty		2 Pts	115	27840	27445		27610		230 on Reweigh		[illegible]
*2-9-56	Swift		4 Pts Springfield	180	51875	50735	+110		50081	1140		[illegible]
✓	A. I. Ind.		6 Pts	363	83430	80955			80605	2475		[illegible]
✓	Hormel		12 Pts	793	169645	166795	+150 2100 95	+150 235 230		2850		2850
✓	Cudahy Phoenix		Dallas Cty	132	28980	28815		28730		250 Reweigh		[illegible]
✓	Hobin		Chapin	106	25860	25395		25665		195 Reweigh		[illegible]
✓	✓		2 Pts	112	25620	25370		25400		220 Reweigh		220
	Figge		2 Pts	141	27050	26545		26650		400 Reweigh		[illegible]
✓	C F Vissman		4 Pts	108	29200	28805	+45 235 115			395		[illegible]
2-10-56	Figge-H		Chapin	142	27945	27335	+240			610		[illegible]
✓	✓		2 Pts	138	27650	27285		27280		350 on Reweigh		[illegible]

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Date	Sold to	Shipped from	Hogs No. Head	Invoice Weight	Buy Weight		Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
2-11-56	Tierney	Quincy	135	29145	[illegible]		28945		200 on Reweigh		200
✓	Cudahy Phoenix	Macon	130	27355	27265		27165		190 on Reweigh		190
✓	Marshall	[illegible]	127	28075	27920	-45			155		155
✓	✓	Dallas City	130	28790	28650		28540		250 on Reweigh		250
✓	Neil	3 Pts	513	125740	113745			112040	2035		2035
* 2-11-56	St L Ind	~~9 Pts~~ - [illegible]	130	55430	54250			53950	1180		1180
2-11-56	Tolman	10 - [illegible]	117	26825	26825				0	0	0
✓	✓	Chapin	125	28140	27755		27890		250 on Reweigh		250
✓	Schlenderberg-K	Pittsfield	105	29550	29450		29385		165 on Reweigh		165
✓	✓	Dallas City	119	26480	26260		26380		100 on Reweigh		100
✓	✓	Quincy	123	27245	27145		27130		115 on Reweigh		115
✓	Kloeppmann	Chapin	127	26850	26180				670		[illegible]
✓	Hormel	8 Pts	699	144385	141985	+65 +140			2400		2400
✓	Kingan	5 Pts	363	79230	78065				1165		1165
✓	Swift NSY	10 Pts	440	115170	113410				1760		1760
2-13-56	Bibrader	4 Pts	134	28410	28410				0	0	
* ✓	Swift	8 Pts - [illegible]	496	145480	142590			140420	2890		[illegible]
✓	Neil	6 Pts	381	87565	85050			83450	2515		2515
✓	Tierney	2 Pts	128	27625	27295				330		[illegible]
✓	Fugger	Quincy	135	26640	26240	+30			400		[illegible]
* ✓	Hormel	6 Pts - [illegible]	638	147740	144310	+110 +430 -135			3430		[illegible]
✓	Hunter	4 Pts	543	118530	116205			114735	2315		2315
✓	St L Ind		84	30500	29660			29455	840		

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Date	Sold to		Shipped From	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh Weight (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
2-14-56	Horne		9 Pts	663	145865	143225				2640		2640
〃	Hunter		5 Pts	533	118915	117385			115115	1530		1530
〃	N Y Ind		7 Pts	220	57125	56625			55150	500		500
〃	Fagga		3 Pts	139	26670	26270				400		400
〃	Swift	N.S.Y.	5 Pts	200	51180	50590			49400	590		590
2-15-56	Horne		10 Pts	626	141825	139530	233 15 55	-35 -30		2295		2295
	Hunter		6 Pts	511	112955	111555			109715	1400		1400
* 2-16-56	Horne	9 Pts	[illegible] 40 [illegible] 40	643	140195	137605				2590		2590
〃	N Y Ind		5 Pts	55	24270	23895			23465	375		375
〃	Dougherty		Jacksonville	128	28400	28045	1000			355		355
〃	Tony		Barry	147	28970	28370				600		600
〃	Tobin		Jacksonville	162	29525	29525				0	0	0
2-17-56	Fagga-H		[illegible]	134	26895	26595		26595		300 Reweigh		300
〃	Tony		Dallas City	136	29105	28910				195		195
〃	〃		Mahon	127	27260	27260				0	0	0
〃	Mischoff	Dallas	4 Pts	249	58050	58450		58220		170 in Reweigh	170	
〃	Heil		5 Pts	543	117100	116580			113355	520		520
〃	N Y Ind		5 Pts	233	60250	58670			58195	1580		1580
* 2-18-56	Belvedere		4 Pts - [illegible] 57-	116	30770	30170				600		600
〃	Hunter		7 Pts	632	135950	134565			131610	1385		1385
〃	Mischoff	Dallas	[illegible]	111	26505	26505		26400		105 Reweigh		105
〃	Tobin		Chapin	246	56350	56035				315		315
〃	Swift	N.S.Y.		605	162000	160810			157000	1190		1190

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Date	Sold to		Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Rough Weights (if Shown)	Off Truck Weights (if Shown)	Weight Difference	Weight Deducted	Weight Added
2-18-56	Horne		7 Pts	504	112900	110325			2140		2100
✓	Flanagan		Chafee	115	25925	25725 205			200		200
✓	Clougherty		Oil City	110	27550	27550	27260		290 on Rough		290
* 2-20-56	Swift	~~3 Pts~~	[illegible] 96	273	85435	84935		82460	500		500
✓	Horne		10 Pts	740	178325	175660 280 15 2140 -40			2665		2665
✓	A.Y. Ind		8 Pts	228	57190	56280		55325	910		910
✓	Strong		Boring	136	29520	28195	29120		400 on Rough		400
✓	Friggs - H		3 Pts	148	28920	28445			475		475
2-21-56	✓		3 Pts	134	26850	26725	26450		400 on Rough		400
✓	Clougherty		2 Pts	231	53025	52460	52895		130 on Rough		130
	Tobin		2 Pts	124	29390	29190	29190		200 on Rough		200
2-22-56	Hunter		7 Pts	388	84315 2 6 15 .40	82825		81700	1490		1490
✓	Redford		Palmyra	133	28330	28330			0	0	0
✓	Clougherty		3 Pts	119	27550	27360	27410		140 on Rough		140
✓	✓		3 Pts	118	26960	26960	26820		140 on Rough		140
✓	Friggs		2 Pts	144	28760	28465	28360		400 on Rough		400
✓	Neuhoff	Dallas	Medina	119	28400	28400	28155		245 on Rough		245
✓	✓	✓	Gainesville	112	27065	26900	26965		100 on Rough		100
✓	Belvedere	4 Pts	Pernie 55	129	28650	28650			0	-	-
2-23-56	A.Y. Ind		5 Pts	347	85415	83445		82405	1970		1970
* ✓	Swift		5 Pts - Ashfield 64	339	92300	91215		84200	1085		1085
✓	Hunter		3 Pts	508	112265	110260		109175	2005		2005
✓	Clougherty		Pomeroy	128	29880	29880	29670		210 on Rough		210
✓	✓		Macon	127	27915	27915			0	0	0

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Date	Sold to	Shipped From	Hogs in Load	Shipper Weight	Buy Weights		Rough Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
2-23-56	Hormel	7 Pts	550	115180	113580	55			1600		1600
〃	[illegible] Dallas	3 Pts	235	52170	51660	[illegible]			510		510
2-24-56	Heil	3 Pts	473	106120	104080				2040		2040
2-25-56	[illegible] Dallas	2 Pts	123	26655	26955		26655		0	0	0
〃	Tobin	[illegible]	110	27070	27340				270	270	
〃	〃	3 Pts	144	26920	27120		26770		150 Rough	150	
〃	Merkel	3 Pts	249	52370	52570		52260		110 on Rough		110
〃	Tierney	5 Pts	125	25755	25745		25755		0	0	0
✓ 〃	St L Ind	4 Pts Bushnell	71	28725	28480		28050		675 on Rough		675
〃	Swift N.S.Y.	2 Pts	50	18810	18555				255		255
* 〃	Hormel	5 Pts - [illegible]	97	20205	19910				295		295
〃	Bebrucker	2 Pts [illegible] 45 [illegible] 45	135	29435	29435				0	0	0
2-27-56	Merkel	7 Pts	128	27525	27415		27355		150 on Rough		150
〃	Tierney	Palmyra	122	26625	26385		26505		120		120
〃	Kleyman	3 Pts	146	25440	25150		25040		400 on Rough		400
〃	Kingan	7 Pts	366	81235	80010	455			1225		1225
2-29-56	Swift N.S.Y.	8 Pts	710	173320	171320			167350	2000		2000
〃	Hormel	9 Pts	783	173465	169725	[illegible]			3740		3740
〃	Tierney	Palmyra	140	25825	25625		25625		200 on Rough		200
〃	Figge	2 Pts	139	27015	26650		26615		400 on Rough		400
〃	St L Ind	5 Pts	199	56745	55445			54825	250		250
〃	Hunter	5 Pts	529	115800	114320			112210	1480		1480
2-29-56	Tierney	Barry	148	27850	27550		27495		355 on Rough		355

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	[illegible] Weight	[illegible]	[illegible]	Off Truck Weight at [illegible]	Weight Difference	Weight Deducted	Weight Added
2-28-56	Tobin	[illegible]	112	27935	[illegible]				0	0	0
"	Neuhoff Dallas	4 Pts	247	[illegible]	[illegible]				400		400
"	Hunter	4 Pts	541	116300	115790			112695	510		510
"	N.Y. Ind	5 Pts	147	54580	53480			52650	1100		1100
"	Hormel	7 Pts	419	88470	86505	+85 +140 +150	+45 +140		1465		1465
"	Swift N.S.Y.	4 Pts	241	57455	56955				500		500
2-29-56	Hormel	8 Pts	423	113115	111565				1550		1550
"	Swift N.S.Y.	7 Pts	566	128685	126685			124310	2000		2000
"	Hunter	2 Pts	98	26030	25360			25250	670		670
"	Wilson - Stkyds KC	Sta-Bucknell	41-72	28700	28690				10		10

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Date	Sold To		Shipped From	No. Head	Invoice Weights	Buyer Weights		Reweigh Weights (of above)	Off truck Weights (of above)	Weight Difference	Weight Adjusted	Weight added
* 3-1-56	[illegible]		[illegible]	125	28660	28200				460		460
✓	Tinny		Berry	134	28220	28025		28220 ?		0		✓
✓	✓		Dallas City	139	28370	28135		28370 ?		0		✓
✓	Tafoya		2 Pts	128	28610	28485		28610 ?		0		✓
✓	Swift	N.S.Y.	14 Pts	396	119635	117[illegible]25			115570	2950		2950
✓	Horne		4 [illegible]	248	53920	53485		53485 ?		0		✓
✓	Hunter		3 [illegible]	117	25200	24725		25200 ?	24425			✓
✓	Fogg		3 Pts	131	26500	25[illegible]10		26500 ?		0		✓
3-2-56	✓		Chicago	111	28455	29155		28455 ?				
✓	Frankoff		Chicago	248	58225	58[illegible]95		58070		225 Reweigh		225
✓	✓		2 Pts	247	54160	54160		54110		50 Reweigh		50
✓	✓		Dallas	126	29105	28435		29105 ?		0		✓
✓	✓		2 Pts	118	26765	[illegible]265		[illegible]		165 Reweigh		[illegible]
✓	Tinny		Berry	262	57465	57050		57465 ?		0		
✓	✓		Pittsburg	125	26770	26560		26720 ?				
✓	✓		Dallas City	125	26715	26715		26680		35 Reweigh		35
✓	N.T. Ind		7 Pts	144	59105	58035		59185 ?				
3-3-56	Belvedere		3 Pts-[illegible]	127	29735	29335		29735 ?				
✓	Swift	N.S.Y.	[illegible] Pts (2 days)	779	181140	179090				2050 ? [illegible]		2050
✓	Horne		5 Pts	409	87650	86300				1300		1300
✓	Hunter		6 Pts	771	166285	164395			161025	1900		[illegible]
✓	Heil		4 Pts	668	148750	147205			145305	1545		[illegible]
✓	Meinhoff		2 Pts	235	55005	54605				400		400

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	Date	Sold	To	Shipped from	Hogs	[illegible] Weight	Buy Weight		Reweigh Weight (if shown)	Off truck Weight (if shown)	Weight Difference	Weight Deducted	Weight added
	3-5-56	Tobin		Dallas City	125	[illegible]	[illegible]		[illegible]		150 Reweigh		150
	✓	Michael		Quincy	125	26490	26490		26330		160 Reweigh		160
	✓	Triggs		Barry	140	27410	27410		27410		0		
	✓	Kleymann		Chapin	137	28960	28655		28960 ?				
	3-5-56	Imhoff 437		5 Pts	109	30210	29630			29020	570		570
*	✓	Hoffman		6 Pts Hoffman	324	80205	78985				1220		1220
	✓	Truny		2 Pts	184	24970	24870		24970 ?		100 ?		100 ?
	✓	✓		1 Pt	135	26570	26395		26570 ?				
	✓	✓		Barry	125	25620	25490		25620 ?				
	✓	Tobin		Decatur	115	25315	25315				0		
	✓	✓		Dallas City	109	24815	24805		24760		45 on Reweigh		45
	✓	Payton		Barry	134	28320	28225		28320 ?				
	✓	Krukoff		Palmyra	119	26315	26210		26315 ?				
	✓	✓		2 Pts	110	26385	26285		26385 ?				
*	✓	St Louis Ind	9 Pts	Roberts -22-	397	107100	105115				1985		[illegible]
	3-6-56	Payton [illegible]		Barry	120	25520	25425		25520 ?				
	✓	Krumhoff Dallas		Chapin	338	51425	51135	4335			300		300
	✓	✓	[illegible]	Meredosia	119	27620	27470		27620 ?				
	✓	Dougherty		Decatur	181	41220	40990	4230			330		330
	✓	✓		Palmyra	124	25930	25495		25930 ?				
	✓	Cudahy		Dallas City	134	28140	27940		28140 ?				
	✓	St Louis Ind		9 Pts	238	61990	60500			59705	1390		1390
	✓	Hunter		3 Pts	263	56760	55560	+400		55000	1220		1220
	✓	Home		4 Pts	251	53560	52345	+70	on		4315		1815

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Date	Sold	to	Shipped From	Hogs No. Head	[illegible] Weight	Buy Weight		Reweigh Weight (if shown)	Off truck Weight (if shown)	Weight Difference	Weight Deducted	Weight Added
-7-56	Cudahy		Palmyra	110	27550	27625		27550 ?				
* ✓	Hunter		9 Pts [illegible] 124	459	137950	136135	"		135665	1815		1815
✓	Hormel		7 Pts	515	109025	107155	+195 +240 +30	+330 +390 +225 +490	/	1870		1870
✓	Belvedere		3 Pts	71	18250	18225		18230 ?				
✓	Cudahy	S.D. Cal	2 Pts	128	28390	28460		28390 ?				
✓	Fugge		2 Pts	134	25780	25390		25760 ?				
✓	St. L. Ind		9 Pts	237	75185	73750			73535	1435		1435
✓	Reinhoff	Dallas	4 Pts	450	103255	102525	+190 +130 +320 +90			730		730
3-8-56	Cudahy	Phoenix	Palmyra	117	26340	26425		26300 ?				
✓	✓	San Diego	2 Pts	240	53350	52985		53350 ?			—	
✓	Hormel		5 Pts	257	59045	57740				1305		1305
✓	Tobin		3 Pts	225	52165	51865				300		300
✓	Merkel		Denton	135	28695	28695				0		
✓	Payton		Baring	122	26855	26400				455		455
✓	St. L. Ind		9 Pts	164	54230	53075				1155		1155
3-9-56	Payton		[illegible] 12	234	50390	50390				0		
✓	Reinhoff	Dallas	Springfield	101	25235	25235						
✓	✓	–	Chapman	245	52960	52710				250		250
✓	✓	–	Baring	115	26620	26340		26620				
✓	✓	✓	2 Pts	115	27720	27720		27690		30 Reweigh		30
✓	✓	✓	2 Pts	176	29765	29765		29310		455 on Reweigh		455
✓	Cudahy	S.D.	Dallas	137	28395	28395		28210		185 on Reweigh		185
✓	✓	Phoenix	Baring	131	27720	27720		27720 ?		(600)		
✓	Clougherty		Downey	127	27690	27590		27690 ?				

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Date	Sold to		Shipped From	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh Weight (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
3-9-56	Hagman		Clifton	118	25530	25180		25530 ?		400 on Reweigh		400
✓	Fugge		Quincy	138	26650	26020		26250				
✓	Heil		4 Pts	523	114240	112000			118700	2240		2240
✓	Horne		4 Pts	275	56230	55040	5340 20			1190		1190
3-16-56	Belvedere		2 Pts	75	18745	18745						
✓	Swift	MSJ	[illegible]	389	114340	112710			110150	1630		1630
✓	Henkhoff	Dallas	2 Pts.	118	28355	28355		28265		90 on Reweigh		90
✓	✓	/	Palmyra	99	25235	25035		25235 ?		200	200	
✓	✓		Carthage	120	26110	26310						
✓	Clougherty		2 Pts	122	26815	26815		26600		215 on Reweigh		215
✓	✓		2 Pts	261	56620	56620						
✓	Tobin		2 Pts	114	25725	25725						
✓	✓		3 Pts	251	57885	57885		57370		515 on Reweigh		[illegible]
✓	✓		Rushville	112	25460	25460						
✓	Horne		5 Pts	278	55890	55170				720		[illegible]
3-17-56	S.T. Seed		6 Pts	74	28275	27725	565			550		[illegible]
* ✓	Horne	9 Pts	Peoria 3 ✓	569	110360	108460				1900		[illegible]
✓	Tobin		Decatur	119	26750	26620		26750				
✓	Fugge		2 Pts	138	27040	26910		27040				
✓	Hunter		8 Pts	667	147880	144580			143240	3300		3300
✓	John Morrell		Palmyra	251	61660	60065			59750	1595		1595
✓	Heil		3 Pts	491	109640	108180			106135	1460		1460
✓	Henkhoff		2 Pts	116	27780	27695		27660		120 on Reweigh		125
✓	✓		2 Pts	224	52240	51995		52240				

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	Date	Sold to	Shipped From	Hogs Per Load	Invoice Weights	Buy Weights		Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
	3-13-56	Nienhoff	Chapman	259	57800	57500	300			300		300
	✓	✓	Barny	133	29395	29395	+185	29580		185 on Reweigh	185	
	✓	✓	2 Pts	97	25655	25655	-300			0		
	3-13-56	Cudahy Phoenix	3 Pts	135	29275	29125				150		150
	✓	Payton	Barny	140	29955	28840		29155				
	✓	Nienhoff	3 Pts	222	50320	50020	+100			300		300
	✓	✓	Chapman	124	28765	28340				425		425
	✓	✓	2 Pts	108	28420	28420		28320		100 on Reweigh		150
	✓	Clougherty	Palmyra	119	27450	27320		27325		125 on Reweigh		125
*	✓	Home	7 Pts Bushnell-34	276	53595	54440				1155		5
	✓	Crown	4 Pts-Perma 24	108	29135	29135						5
	3-14-56	John Morrell	9 Pts	437	111475	109845				1630		1630
	✓	Hunter	Rushville	137	30530	29815			29550	715		715
	✓	Nienhoff	2 Pts	125	28360	28360						
	✓	✓	Quincy	101	27180	27080		27180				
	✓	✓	3 Pts	99	25210	25110		25175		35 on Reweigh		35
	✓	✓	Spgfld	180	42445	42445						
*	✓	Home	8 Pts- Perma 34 Bushnell 71 -	564	114740	113175				1565		1565
	✓	Coast	Chapman	123	27800	27515		27800				
	✓	D S Ind	4 Pts	81	27800	27105			26855	250		250
	✓	Clougherty I.A.	Palmyra	117	26460	26040		26460				
	✓	✓	Anchor	127	28325	28065	+435			260		260
	✓	Cudahy S D	Quincy	122	26240	26200		26240				
	✓	✓ Phoenix	2 Pts	135	28840	28570		28840				

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Date	Sold	to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh Weights (if Shown)	Off truck Weights (if Shown)	Weight Difference	Weight Deducted	Weight Added
3-14-56	Payton		Decatur	126	26445	25925	520			200		200
3-15-56	John Morrell		12 Pts	530	136695	133425				3260		3260
✓	Tobin		3 Pts	125	28880	25880		28785		95 on Reweigh		95
✓	✓		Quincy	121	27420	27260				160		160
✓	✓		Palmyra	108	27380	26945		27380 ?				
✓	Payton		Palmyra	129	27580	27250		27585 ?				
✓	✓		Barry	132	27250	26790		27250 ?				
✓	Cudahy Phoenix		Springfield	129	27530	27530						
✓	St L. Ind		2 Pts Springfield-5	34	12685	12145		12685	12110			
✓	Hormel		14 Pts	665	137260	133870	+330 +40 +160 +115 +65 +3??			3390		3390
3-16-56	Menkhoff		Springfield	207	52845	52845						
✓	✓		Dallas City	114	27200	26945		27200 ?				
✓	✓		Barry	116	28880	28505		28885 ?				
✓	Cudahy Phoenix		2 Pts	119	25335	25085		25335 ?				
✓	✓	✓	Palmyra	132	28250	27845		28250 ?				
✓	Frigge		Quincy	148	28990	28560		28991 ?				
✓	Hormel	3 Pts	Springfield-57	290	58930	58530				400		400
✓	Heil		6 Pts	534	118200	116520				1680		1680
* ✓	J Morrell	6 Pts	Springfield-34 Cantrall-34	336	105085	103370				1715		1715
3-17-56	Payton		Springfield	271	56360	56360						
✓	Tobin		Quincy	117	27380	27180	+200			200		200
✓	✓		Chapin	231	52455	51855	+600			600		600
✓	Merkel		Decatur	255	54740	53940	+870			870		870
✓	✓			143	28380	28180	+200			200		200

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	Date	Sold to	Shipped From	No. Head	Invoice Weights	Buy Weights		[illegible] Weights (if shown)	Off truck Weights (if shown)	Weight Difference	[illegible]	Weights Added
	3-17-56	[illegible] City	2 Pts	134	26965	26745		26620		345 on [illegible]		345
	✓	Kuhlhoff	Palmyra	98	24965	24665		25070		+ 105 [illegible]	105	
	✓	[illegible]	Palmyra	118	24720	24167		24720	?			
*	✓	[illegible]	3 Pts - [illegible] 30	269	58340	57830				510		510
	✓	Mission San Ant.	Jacksonville	123	27835	27535	+300			300		300
	✓	Home	11 Pts	287	56620	56040				580		580
	✓	St L Ind	6 Pts	78	25720	25705	+15			15		15
	✓	Wilson KC	5 Pts	248	60165	59665				500		500
	✓	Belvidere	5 Pts	122	28710	28730	-20			20	20	
*	3-19-56	Swift NSY	5 Pts - Springfield - 34 [illegible] 22	617	142620	141110			137500	1510		1510
*	✓	Home	4 Pts - Springfield - 34	302	56670	55135	+1535			1535		1535
	✓	J Morrell	7 Pts	721	169000	165680			163790	3320		3320
	✓	Little Rock	Palmyra	133	29270	29040		29340		50 [illegible]	70	
	✓	Payton	Springfield	144	29380	29380						
	✓	tobin	2 Pts	96	24165	24225		24190		35 [illegible]	35	
	✓		Quincy	108	25135	25065		25130		5		5
	✓	Kuhlhoff	Decatur	108	27215	27115		27245		30 on [illegible]	30	
	✓	✓	Dallas City	111	25760	25610	+150			150		150
	✓	✓	Palmyra	98	26815	26635	+180	(		180		180
	✓	Fagge	2 Pts	129	25380	25070		25380		—		
	✓	St Lo Ind	6 Pts	350	84365	83075				1290		1290
	3-20-56	Fagge	Quincy	126	25710	25205		25710				
	✓	Kuhlhoff	Springfield	198	53885	53885	[illegible]					
	✓	Swift	6 Pts	214	55070	54965			53210	85		85

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weight	Buy Weight		Reweigh Weight (if Shown)	Off Truck Weight (if Shown)	Weight Difference	Weight Deducted	Weight Added
3-20-56	J Morrell	7 Pts - Gyffell - 21	660	145470	143720			140712	1270		1270
* ✓	Home	7 Pts - Gyffell - 25	440	93525	92215				1300		1300
✓	Mann & Mann	4 Pts	244	55050	55050				0		
3-21-56	Swift	5 Pts	99	26836	26626			25940	210		210
✓	Home	9 Pts	414	88400	87025	[illegible]			1375		1375
✓	Tigge	3 Pts	146	29370	29135		29320				
✓	Clougherty	-2 Pts ~~Dezertine~~	114	25060	25060						
✓	✓	Dezertine	122	27795	27415		27795				
✓	Cudahy Phenix	2 Pts	124	26415	26535		26415				
✓	Mann & Mann	3 Pts	264	58325	57520	[illegible]			805		805
✓	A Z Ind	7 Pts	191	53360	52130				1230		230
3-22-56	Belvedere	Sth-Cross 19-	126	29970	29970						
✓	Swift	5 Pts	71	27160	27540		27660				
✓	Home	10 Pts	503	106145	104645				1500		1500
✓	Kenny	2 Pts	117	25710	25525		25710				
✓	✓	2 Pts	139	28275	28275		28100		175 on Reweigh		175
✓	Stone	Quincy	118	26055	26055		25990		65 on Reweigh		
✓	✓	Chafin	112	26085	25785				300		300
✓	Payton	2 Pts	120	25780	25780		25620		160 on Reweigh		160
✓	Cudahy Phenix	Palmyra	129	29160	28785		29180		20	20	
✓	✓ ✓	Quincy	130	27500	27500		27320		180 on Reweigh		180
✓	✓ S.D.	Berg	130	29410	29455		29410 ?				
3-23-56	A Z Ind	Sth-Gyffell -	99	29345	29090		29345 ?				

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	Date	Sold to		Shipped From	[illegible]	[illegible]	[illegible]		[illegible] by Packer	[illegible]	Weight Difference	Weight Deducted	Weight [illegible]
	-23-56	Frankloff		Appleton	120	26720	26170						
	✓	Cudahy	Plainf	Chapman	123	26980	26725		26980				
	✓	✓	5 D	Palmyra	114	25770	25390		25770				
	✓	Tiggs		2 Pts	133	25860	25675		25860				
	✓	Brooks	Anstrutter Tf	Barry	130	28680	28680		28540		140 on Rough		140
	✓	Mance + Mauer		2 Pts	122	26680	26460		26680				
	✓	✓		2 Pts	113	25345	25165	+100			180		180
	✓	Slaughtery		Amsm	120	26455	26455						
	✓	Trimy		Dobbs Tf	133	28265	28165		28265				
	✓	✓		Barry	126	26380	26145		26380				
	3-24-56	Belvedere		6 Pts. Bucholtz 39	103	26230	26245				15	15	
*	✓	Swift		Several - Bucholtz 19	385	89540	88680				860		860
	✓	Hormel		5 Pts	243	51560	51000	+560			560		560
	✓	Merkel		4 Pts	127	27300	27300						
	✓	Kleyman		Chapman	141	25605	25560		25605				
	✓	Payton		Chapman	391	84710	84710						
	✓	Tobin		Dallas	104	27170	27170		27010		160		160
	✓	✓		Golden	114	26515	26515		26220		295		295
	✓	✓		Quincy	102	26985	26985		26780		205		205
	✓	Frankloff		Omaha	118	25995	25995		25800		195		195
	✓	✓		2 Pts	102	26270	26270		26205		65		65
*	3-26-56	Hormel		8 Pts. Appleton 23	246	54630	53655				975		975
*	✓	A I Ind		9 Pts Appleton 57	554	138140	136215				1925		1925

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Date	Sold to	Shipped From	Hogs Purchased	Shrink Weight	Buy Weight		Purchase Weight ([illegible])	Off truck Weight ([illegible])	Weight Difference	Weight Deducted	Weight Added
3-26-56	Thenhoff	Quincy	118	27480	27335		27640				
✓	✓	2 Pts	[illegible]	26425	26435		27170		265 R		265
✓	✓	Pittsfld	95	25270	25270						
✓	Payton	Pittsfld	124	27830	27830						
✓	Amand-Krause	3 Pts	251	55245	[illegible]				310		310
✓	Tobin	Quincy	120	27690	26920				770		770
✓	✓	4 Pts	127	28160	27995		28160				
* 3-27-56	Swift	7 Pts - Pittsfld 56	351	81870	80870			79010	1000		1000
✓	St L Ind	7 Pts	366	85740	84015			82845	1725		725
✓	Amend	3 Pts	251	54950	54600				350		350
✓	Thenhoff	2 Pts	110	26290	26290		26155		135 R		135
✓	✓	2 Pts	116	25760	25460		25763				
✓	✓	2 Pts	229	51925	51925		51690		235 R		235
✓	✓	Pittsfld	251	55620	55620						
* 3-28-56	Swift	9 Pts - Pittsfld 68	384	114220	112815				1405		1405
✓	Claughty	2 Pts	133	28620	28620		26580		40 R		[illegible]
✓	Coast	Decatur	124	27750	27850				100	100	
✓	✓	Quincy	116	26130	26090		26230		100 R	100	
✓	✓	Chapman	116	26320	26195		26520				
* ✓	Hormel	60 Pts Pecos 46 Pittsfld 32	464	83835	81845				1990		[illegible]
✓	St L Ind	5 Pts	369	88730	87380				1350		[illegible]
* 3-29-56	St L Ind	several Pittsfld 16	551	143510	141440			134695	2070		[illegible]
* ✓	Hormel	several Pittsfld 16	550	111270	110020				1250		1250

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Date	Sold	to	Shipped From	Hogs No Head	Invoice Weight	Buy Weight		Reweigh Weight (if Shown)	Off truck Weights (if Shown)	Weight Difference	Weight Deducted	Weight Added
3-29-56	Payton		2 Pts	122	26610	26295		26510		100 R		100
✓	Strong		Barry	140	27695	27310		27695				
✓	✓		Palmyra	135	29685	29485				200		200
✓	Fugge		2 Pts	148	28670	28205		28670				
✓	[illegible]		2 Pts	113	26535	26435		26535				
[illegible]	✓		2 Pts	116	27610	27480		27610				
✓	Kramer		2 Pts	252	57085	56490				595		595
3-30-56	✓		Clayton	110	25150	24745		25150				
✓	✓		Dallas City	122	25930	25810		25930				
✓	Fugge		2 Pts	131	26060	25820		26060				
✓	Brinkhoff		Quincy	115	26550	26240		26550				
✓	✓		Medora	105	26475	26365		26475				
✓	✓		Mason	136	28000	28000						
✓	✓		Barry	114	27260	27090		27260				
✓	✓		Jacksonville	126	27905	27635		27905				
✓	Heil		8 Pts	442	108840	106825			105465	2015		2015
* ✓	St. L.	Ind	7th [illegible] 28	156	51000	50210				790		790
✓	Strong		Palmyra	122	25155	25355		25080		75 R		75
3-31-56	Brinkel		Chapin	143	28465	28292		28465				
✓	✓		Quincy	119	27540	27540						
✓	Payton		Barry	127	26755	26340		26755				
✓	✓		Quincy	120	26435	26435						
✓	Belvedere		60 Pts	107	25020	25110			23215	90	90	

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Date	Sold To		[illegible]	[illegible]	[illegible]	Pay Weight		Shrunk Weight	Off truck Weights	Weight Difference	Weight Deducted	Weight Added
3-31-56	[illegible]		[illegible]	247	[illegible]	[illegible]				1550		[illegible]
										400		400
"	"		[illegible]	134	39780	38380				870		870
"	Swift		[illegible]	351	96160	95290						

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Date	Sold to	Shipped From	Hogs No. Head	[illegible] Weight	Buy Weights		[illegible] Weights (as shown)	Off truck Weights (if shown)	Weight Difference	Weight deducted	Weight added
4-2-56	Figge	2 Pts	120	26540	26280	-			280		280
✓	Horne	3 Pts	158	27360	27250	-			610		610
✓	Kuhoff	Spgfld	164	44745	44745				0		0
✓	✓	Barry	120	27605	27390	+215			215		215
✓	✓	Anchor	128	28740	28615	+125			125		125
✓	✓	Quincy	149	24830	24770	+60			60		60
✓	✓	Dallas	106	25880	25760	+120			120		120
✓	✓	Palmyra	107	27080	27005	+75			75		75
✓	Cudahy SD	Palmyra	120	27435	27080		27435		0		0
✓	Merkel	Decatur	134	28155	28155				0		0
✓	Terry	Barry	144	27635	27400	+150			235		235
✓	✓	Springfield	300	60685	60685				0		0
✓	Hunter	8 Pts	506	110120	108740			108705	1380		1380
✓	Oscar Mayer	Pr-Spgfld 77	201	59345	59445				100	100	
✓	Swift	11 Pts	709	168570	167810				760		760
4-3-56	Horne 2 Pts	Bushnell 67 Springfield 35	153	26620	26550				70		70
✓	Payton	Barry	132	27870	27785		27870		0		0
✓	✓	Dallas	133	28040	27930		28040		0		0
✓	Cudahy Phoenix	Palmyra	123	28200	27560		28200 ?		0		0
✓	Figge	3 Pts	153	30350	29190		30050		0		
✓	Oscar Mayer	3 Pts	237	54945	54430				15		
* ✓	St L Ind	13 Pts Spgfld 16	743	189190	186145				3045		3045

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Buy Weight		Reweigh Weight (of Above)	Official Weight (of Above)	Weight Difference	Weight Deducted	Weight Added
4-4-56	Armour	8 Pts	573	111240	110740				500		-500
↓	Hormel	6 Pts	418	82220	82220				0		0
↓	J Morrell	2 Pts	253	56610	55720			55180	890		890
↓	St L Ind	4 Pts	178	54700	53920			53845	780		780
4-5-56	Belvidere	3 Pts Anna 72	146	28040	28040				0		0
	Cudahy Packing	Baring	127	26910	26335		26810		100 Rew		100
	Armour	2 Pts	129	28910	28630	+280			280		280
	Figge	3 Pts	156	29860	29200		29410		450 Rew		450
*	Hormel	9 Pts Bushnell 53	739	161025	158870				2995		2995
	St L Ind	7 Pts	68	26750	26270				480		480
* 4-6-56	↓	9 Pts Ygld 24	283	78770	77200				1570		1570
	Tierney	2 Pts	248	52625	52625				0		0
	↓	Chapin	122	25895	25595	+300			300		300
	↓	Baring	148	27970	27760		27970		0		0
	↓	Palmyra	131	27555	27555		27495		60 Rew		60
	↓	Decatur	124	26355	26335				0		0
	Neuhoff	Media	113	25595	25550	+45			45		45
	↓	Chapin	118	27260	27160	+110			100		100
	↓	Quincy	109	26650	26590		26650		0		0
	↓	Bowen	118	29400	29400		29040		360 Rew		360
	Figge	Biggsville	137	27340	27140		26940		400 Rew		400
	Cudahy Packing	2 Pts	130	27870	27870		27785		85 Rew		85
	Oscar Mayer	2 Pts	254	56480	55670			54835	810		810

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh Weights (of Above)	Off Truck Weights (of Above)	Weight Difference	Weight Deducted	Weight Added
4-7-56	Strauss	2 Pts	141	26720	26580	[illegible]	26270		450 Rew		450
✓	✓	2 Pts	123	26090	26090				0-		0
	Payton	2 Pts	116	25340	25150		25340		-		0
	✓	3 Pts	128	26910	26960				0		0
	Tobin	2 Pts	102	26110	26110				0		0
	Greenliff	Whitesburg	126	27780	27740				40		40
	✓	2 Pts	104	27210	27210				0		0
	✓	2 Pts	113	26785	26785				0		0
	✓	Griggsville	115	25050	25050				0		0
	✓	Eddams	119	26975	26975				0		0
	Swift	10 Pts	472	116780	115520				1260		1260
	Hormel	4 Pts	268	55940	55215				725		725
	Hunter	5 Pts	499	108470	107970			105205	500		500
* 4-9-56	Oscar Mayer	11 Pts [illegible] 60	397	112770	111970				800		800
*	Hormel	10 Pts [illegible] 72	519	106085	104585				1500		1500
	Payton	Palmyra	112	25530	25265		25530		0		
	✓	Barry	130	27850	27410		27850		0		
	Fugge	5 Pts	137	26840	26535		26440		400 Rew		400
	Belvedere	4 Pts [illegible]	114	30355	30355			28530	0		0
4-10-56	Greenliff	Griggsville	[illegible]	28650	28650				0		0
	✓	3 Pts	112	25690	25690				0		0
	✓	5 Pts	246	57450	57195				255		255
	Oscar Mayer	3 Pts [illegible] 24	66	26885	26850	+35			35		35
*	Hormel	12 Pts [illegible]	411	[illegible]	[illegible]				930		930

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Date	Sold To		Shipped From	Hogs Marketed	Purchase Weight	Buy Weights		Reweigh Weights (of [illegible])	Off Truck Weights (of [illegible])	Weight Difference	Weight Deducted	Weight Added
4-11-56	Figge		2 Pts	132	27520	27620		26 9 0		400 Rev		400
*	Hormel		4Pts Hayfield 52	135	28925	28625				300		300
	Oscar Mayer		5 Pts	471	115920	114955			112620	965		965
	J Morrell		10 Pts	602	143625	141545			139740	2090		2090
* 4-12-56	Swift		6Pts Hayfield 17	267	67965	67465			65720	500		500
	Oscar Mayer		5 Pts	461	114020	112180			111130	1840		1840
	Figge		Palmyra	137	26565	26040		26265		300 Rev		300
	Tierney		Barry	124	26995	26640		26895		0		0
	Hormel		7 Pts	270	53360	52565				795		-35
4-13-56	Heil		8 Pts	633	138625	136625				2000		2000
	Swift	Ft. Wayne	Palmyra	103	26255	25905		26255		350		250
	Figge		2 Pts	144	27600	27400		27150		450 Rev		450
	Tierney		Macon	111	24665	24865		24635		30 Rev		30
	Neuhoff		Mendon	107	26265	26215		26265		0		0
	"		Chapman	100	27525	27285	+240	27525		0		[illegible]
	St Louis Ind		4 Pts	229	56085	55595			54405	490		490
	J Morrell		7 Pts	221	59105	58170			57530	935		935
	Tierney		Barry	133	27790	27790		27780		10 Rev		10
4-14-56	Swift		8 Pts	375	81035	80130				905		905
	Arnold		3 Pts	130	25730	25750				0		0
	Tobin		Mendon	127	27655	27655				0		0
	"		5 Pts	247	55885	55885		55350		535 Rev		535
	Hormel		3 Pts	278	52540	51790				750		750
	Belvedere		9Pts Bushnell 46	130	30200	39745				545	545	

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	Date	Sold to	Shipped From	Hogs in Load	Union Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
*	4-16-56	Swift	7 Pts Sprgfld 41	593	82725	81535		77670	1190		1190
		Oscar Mayer	8 Pts	509	116125	115125		112955	1000		1000
		Neil	4 Pts	376	85460	83775			1685		1685
		Hunter	2 Pts	354	79640	77695			1945		1945
		Tobin	Decatur	115	27035	27030			5	5	
		Fogger	2 Pts	144	27430	27130	27010		420 Rw		420
		Mickel	Clifton	130	28630	28385	28500		130 Rw		130
		Tiny	Berry	126	26785	26570	26685		100 Rw		100
		✓	Palmyra	125	27425	27250	27300		125 Rw		125
		✓	Quincy	122	27500	27355	27380		120 Rw		100
		Hormel	Berry	147	27560	27205			355		355
	4-17-56	Oscar Mayer	5 Pts	378	84640	83300		82495	1340		1340
*		Swift	4 Pts Pana 83 Arthur 17	163	56280	55760		54670	520		520
*		Hormel	7 Pts Sprgfld 42	576	114425	112625			1800		1800
	4-18-56	Cudahy	4 Pts	117	26640	26640	26520		120 Rw		120
		Kingan	3 Pts	240	55415	54915			500		500
		✓	Springfield	136	30190	30190		29180	0		0
		Tiny	Berry	269	53810	53320	53800 ?		0		
		✓	Palmyra	122	26445	25985	26155		10 Rw	10	
		✓	Macon	124	26845	26845			0		0
		Tobin	2 Pts	124	27500	27560			0		
		✓	Moweaqua	124	27170	27170	27025		145 Rw		145
		Hormel	7 Pts	278	57660	56490			1170		1170

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	Date	Sold To	Shipped From	Hogs Per Load	Invoice Weights	Buy Weights		Reweigh Weights (if shown)	Off truck Weight (if shown)	Weight Difference	Weight Deducted	Weight Added
	4-18-56	Tagge	3 Pts	128	25660	25105		25260		400 Rew		400
		Maurer & M	2 Pts	257	56445	56145				300		300
		Tur Ia	2 Pts	107	25970	25945		25070		0		0
*	4-19-56	Oscar Mayer	8 Pts Sealed 18	130	51845	51445			50570	400		400
	4-18-56	"	10 Pts	189	56340	55920				420		420
		Belvedere	4 Pts	113	25360	25360				0		0
		Maurer & M	3 Pts	251	54910	54660				250		250
		Vel Dubuq	2 Pts	127	27790	27545			26900	245		245
		Tur Ia	2 Pts	234	54190	53770		54105		85 Rew		85
		Home	5 Pts	267	53080	[illegible]				895		895
	4-20-56	Kuhl	7 Pts	628	145725	143520				2205		2205
		Fring	Chapin	127	27105	27035				70		70
		"	Pekingese	123	27235	26445		27235		0		0
		"	Mason	138	27265	27265				0		0
		"	Boring	140	28550	28305		28550		0		0
		Menkhoff	Mason	114	28200	28192				0		0
		"	Northstury	111	27375	27190	185			185		185
		"	Dallas City	236	56190	56015		56190		0		0
		"	Boring	96	28405	28340		28405		0		0
		"	Madison	217	51145	51145		50950		195 Rew		195
		Kingan	5 Pts	530	113155	112155				1000		1000
		Tegge	Quincy	143	27320	26920		26920		400 Rew		400
		Coast	Quincy	252	58250	57885		58150		0		0

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	Date	Sold To	Shipped From	Hogs No. Head	[illegible] Weight	[illegible] Weight	[illegible] Weight ([illegible])	Off Truck Weight ([illegible])	Weight Difference	Weight Deducted	Weight Added
	4-21-56	Belvedere	[illegible]	136	27250	27250			0		0
		Homer	3 Pts	284	56340	55440			900		900
*		Swift	[illegible]	167	56565	56300		54560	265		265
		Tobin	2 Pts	134	29305	29305			0		0
		″	Palmyra	124	28240	28040			200		200
		″	Quincy	119	26800	26600			200		200
		″	Chapman	138	28970	28770			200		200
		Marbel	3 Pts	267	55270	55260	54730		540 Rw		540
		Kurzhoff	2 Pts	86	28315	28315			0		0
		″	2 Pts	122	26780	26780			0		0
		Figge	Chapin	143	28605	28405			200		200
	4-23-56	Swift*	13 Pts	267	83635	82410		80780	1225		1225
*		Homer	[illegible]	294	54765	53865			900		900
		Hunter	9 Pts	515	114140	112590		110710	1550		1550
		Val Decker	Decatur	130	28100	27410	27760		340 Rw		340
		Kurzhoff	2 Pts	110	27900	27900	27660		240 Rw		240
		″	Palmyra	122	27740	27740			0		0
		″	Chapman	108	29760	29760			0		0
		Tracer Ia	Palmyra	107	25670	25470			200		200
		Figge	3 Pts	142	27320	26890	26920		400 Rw		400
		Tobin	2 Pts	122	26920	26750	26920		0		0
		Trump	Barry	240	50980	50235	50980		0		0
		Pinegrove	Dallas City	134	28780	28525	28680		100 Rw		100

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Date	Sold to	Shipped from	Head	Weights	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4-24-56	[illegible]	Spfld	114	26630	[illegible]			0		0
	Turner	2 Pts Spfld 5	110	29445	[illegible]			0		0
	↓	3 Pts	107	26115	[illegible]			185 Red		185
	Fugga	3 Pts	190	27770	46995	26929		350 Red		350
	Val Decker	Pat + Spfld 46	161	28940	28945			0		0
	Horne	2 Pts	265	56670	55665			1005		1005
	Kungan	11 Pts	460	116190	114985 440 70 332			1205		[illegible]
	↓	ats-7 Spfld 215	222	56635	56635			0		0
	Hunter	3 Pts	192	41200	40740		39995	460		[illegible]
*4-25-56	Swift	4 Pts Bushell 15	219	58525	57430		58710	1095		[illegible]
	Horne	6 Pts	256	53465	52565			900		[illegible]
	Kungan	8 Pts	359	83185	82415			770		[illegible]
	↓	Perrin	236	52095	52095			0		[illegible]
	Val Decker	7 Pts	303	56600	56110			490		[illegible]
	Belvedere	30 to Perrin 40	150	27630	27530			0		
*4-26-56	Horne	9 Pts Spfld 80	428	82660	81660			1000		1000
	Kungan	8 Pts	562	135810	134310			1500		[illegible]
	Anabel	Spfld	258	53450	53450			0		
	Tuomy	Spfld	112	26720	26720			0		
	↓	Barry	253	54735	54210	54735		0		
	↓	Marron	113	25705	25585	25705		0		
	Tobin	2 Pts	115	26465	26465	26300		165 Red		165
	↓	Quarry	119	27450	27395	27410		40 Red		[illegible]
	[illegible]	38-Spfld 5	61	26660	26660		24999	0		

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Date	Sold to	Shipped From	Hogs Invoiced	Invoice Weights	Buy Weights	Reweigh Weights (by ...)	Off Truck Weights (by ...)	Weight Difference	Weight Deducted	Weight Added
4-26-56	Figge	Quincy	139	27700	27350	27340		400 Rev		400
	Val Decker	Barry	130	27840	27540		26700	0		0
4-27-56	O. Maguire	6 Pts	81	29000	28870			130		130
	Marion	Sprgfld	249	53940	53940			0		0
	Coast	2 Pts Sprgfld 4	229	53455	53220			235		235
	Figge	3 Pts	143	27070	26820	26670		400 Rev		400
	Trimm	2 Pts	121	27170	27170			0		0
	"	Barry	119	26100	25860	26100		0		0
	Merkel	Sprgfld	243	53985	53985			0		0
	"	Dallas City	132	27460	27430	27460		0		[illegible]
	Heil	8 Pts	659	144225	142125			2100		2100
* 4-28-56	Horme	10 Pts Sprgfld 71 Bushnell 34 Barry 3[illegible]	396	75905	74355			1550		1550
	Coast	3 Pts	119	26305	26305	26590		285 Rev		285
*	Gronen	4 Pts Bushnell 3[illegible]	108	29625	29520			105		
	O'Connell	6 Pts	68	27710	27560			150		150
	Tobin	2 Pts	105	28615	28335			280	280	
4-30-56	Horme	5 Pts	403	81165	79925			1240		1240
	[illegible]	3 Pts	370	84265	83045			1220		1220
	Val Decker	3 Pts	395	86110	85010			1100		1100
	[illegible]	3 Pts	393	87150	86060			1090		1090
	[illegible]	Chapin	111	26600	26500 275			100		100
	"	Barry	110	26220	26220			0		0
	"	Mendon	105	26045	26045			0		0

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Date	[illegible] / To	[illegible]	No. Head	[illegible] Weights	[illegible] Weights		[illegible] Weights ([illegible])	[illegible] Weights ([illegible])	Weight Difference	[illegible]	[illegible]
4-30-56	[illegible]	Barry	141	29330	28830		29330		0 Rw		0
		Macon	142	29170	29170		29130		40 Rw		40
	[illegible]	Dallas Cty	219	48920	48920		48860		60 Rw		60
		[illegible]	120	28720	28720				0		0
	[illegible]	2 Ptrs	130	25935	25735		25635		300 Rw		300
	[illegible]	7 Ptrs	141	60895	60045				850		850

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	Date	Sold to	Shipped from	Hogs No. Head	Invoice Weights	Buy Weights		Reweigh weights to (Wilson)	off truck Weights (Wilson)	Weight Diff	Weight deducted	Weight added
#	5-1-56	Horne	5 Pts Springfield 5	285	54560	53330				1230		1230
		Tobin	3 Pts	118	27100	27050		27000		100 [illegible]		100
		Hunter	2 Pts	128	28270	28015		27500		770 Rew		770
		Wilson KC	Springfield	43	25440	25440				0		0
		Arenhoff	Quincy	101	24350	24350		24210		140 Rew		140
		Tucro LA	2 Pts	104	26300	26300				0		0
		Clougherty	Palmyra	128	28500	28500				0		-
		Val Decker	Barry	127	26820	26820		26980		160 Rew	160	
		Armerhal	2 Pts	129	27185	27085		26830		355		[illegible]
		Frigge	Quincy	130	26410	25895		26060		350		[illegible]
	5-2-56	W I Clark	7 Pts	112	44555	44340				215		[illegible]
		Val Decker	2 Pts	126	26970	26840				130		[illegible]
		[illegible]	Virginia	119	26720	26345		26870		100 [illegible]	1.0	
		Hunter	4 Pts	307	68950	68500				450		[illegible]
*		Horne	8 Pts Springfield 3	427	85740	84375				305		[illegible]
	5-3-56	[illegible]	6 Pts	67	25570	25205				365		[illegible]
x		Horne	5 Pts Springfield 3	293	58470	57465				1005		100
		Burnside Kiew	Barry	139	28450	28245		28375		125 Rew		12[illegible]
		[illegible]	2 Pts	124	27640	27190		27640		75 R		[illegible]
		Frigge	Quincy	149	28605	28280		28040		400 Rew		[illegible]
		Tobin	Arcadia	104	25175	25030		25375		160 Rew		1[illegible]
		Thierry	2 Pts	130	26510	26510				0	0	0
		"	4 Pts	245	55375	55075				300		[illegible]

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	Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
*	5-4-56	Home	[illegible]	259	54670	53775			895		895
		Merkel	Chapman	134	28495	28370			125		125
		Tovrea	Palmyra	114	27370	26[illegible]	27370		0		
		〃	Quincy	122	28180	28065	28080		160 Rw		160
		〃	Barry	121	26360	26360	26250		110 Rw		0
	5-5-56	Kingan	10 Pts	575	115120	113370			1750		1750
		A.Z. Ind	5 Pts	94	29040	28725			345		315
		Swift	15 Pts	325	115595	114495			1100		1100
		Frigge	2 Pts	133	25100	25100			0		0
		〃	3 Pts	142	27970	27805			165		165
		Merkel	Natl Stockyds	128	28380	28380			0		0
		〃	Chapman	123	28130	28130			0		0
		Tovrea	2 Pts	269	58425	58425			0		0
	5-7-56	Swift	3 Pts	65	24870	24370			500		500
		Home	[illegible]	156	28650	28645		27500	5		5
		Frigge	2 Pts	142	28560	28065	28160		400 Rw		490
		Val Decker	6 Pts	246	54640	54280			360		360
		Tovrea	Palmyra	124	27390	27290	27210		180 Rw		180
		〃	Barry	242	50420	49480	50420		0 Rw		0
		Tobin	2 Pts	119	26815	26595			220		220
		〃	Madison	125	27715	27715			0		5
	5-8-56	Home	9 Pts	274	54765	53970			795		795
		Little Rock	2 Pts	108	28340	28140			200		200
		G. Dowell	4 Pts	216	53360	52370			950		950

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	Date	Sold to	Shipped From	Hogs Checked	Invoice Weights	Buyer Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
	5-8-56	Bilmelin	2 Pts	111	25770	26370			600	600	
	″	Tobin	Palmyra	127	28510	28510	28120		390 Rev		390
644	5-9-56	Hunter	5 Pts	391	25400	24400		82445	1000		1000
		Ht Fd Sand	13 Pts	385	85605	84285			1320		1320
		Val Decker	2 Pts	374	87975	87255			720		720
		Fagge	3 Pts	133	25785	25785	25370		415 Rev		Rev
		Tuner Ia	3 Pts	102	25825	25825	25520		305 Rev		305
		Kingan	5 Pts	534	117330	115830			1500		1500
*		Hormel	7 Pts Upfield 1 Sel	530	108815	107315			1500		1500
	5-10-56	Cudahy Cherokee	Boring	127	27445	27330	27445		0		0
		Dougherty	2 Pts	116	25475	25475			0		0
		Tobin	2 Pts	121	26760	26760			0		
		Mitchell	Dallas City	125	27380	27380	27170		210 Rev		210
		Tuner Ia	3 Pts	101	25720	25470	24945		275 Rev		275
		Tovey	Chapin	121	25695	25595			100		100
		″	Palmyra	125	25370	25260			110		110
		″	Macon	124	26160	26160			0		0
		Hunter	3 Pts	124	27810	27605			205		205
		Kingan	11 Pts	597	134335	132735			1600		1600
		Crown	3 Pts Pierce 59	119	26475	26475			0		0
	5-11-56	Mitchell	2 Pts	123	27650	27495	27450		200 Rev		200
		″	Upfield	158	32355	32355			0		0
		Cudahy Alb Lea	Mendota	124	27690	27590	27445		245 Rev		245
		Fagg	Chapin	129	26225	25925			300		300

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Date	Sold To		Shipped From	Hogs No. Head	Invoice Weight	Buy Weight	-	Reweigh Weight (if shrink)	off truck Weights (if shrink)	Weight Difference	Weight deducted	Weight Added
5-11-56	Tormy		Barry	237	51395	[illegible]		51295		100 Rw		100
	✓		Dakota City	132	27945	[illegible]		27760		165 Rw		165
	✓		2 Pts	131	27915	[illegible]		27770		145 Rw		145
	Kil		5 Pts	474	106835	[illegible]				2100		2100
*	Swift		110 Pts Buckel 36	194	80365	79365			77430	1000		1000
5-12-56	Market		Chicago	143	28805	28640				165		165
	Tormy		3 Pts	352	76420	75820				600		600
	Fuer	Fla	3 Pts	111	27750	27750				0		[illegible]
	Figge		Quincy	147	28275	27735		27875		[illegible] Rw		[illegible]
	Hormel		5 Pts	289	56705	55885				820		820
	Indiana		3 Pts	68	30160	29740		29140		1020 Rw		1020
	Hunter		2 Pts	113	24860	24690		24090		770 Rw		770
	Swift*		2 Pts Buck 1137	101	27570	27570				0		0
* 5-14-56	Hormel		4 Pts Springfield 50	284	56990	56090				900		[illegible]
	Hunter		5 Pts	250	55590	54930				660		[illegible]
	Indiana		5 Pts	77	29395	29030		28735		660 Rw		[illegible]
	Fuer	Fla	3 Pts	121	29450	29345		29330		120 Rw		[illegible]
	[illegible]		4 Pts	244	53190	51890				300		[illegible]
	Figge		3 Pts	137	26530	26090		26130		400 Rw		[illegible]
	[illegible]		2 Pts	126	27290	27070				220		[illegible]
	Tormy		Dakota City	133	27950	27950		27310		640 Rw		640
	✓		2 Pts	138	28590	28590		28285		305 Rw		305
	Tobin		2 Pts	126	29100	29100		28920		180 Rw		180
	✓		[illegible]	132	27230	[illegible]		27230		0		

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Date	Sold to		Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
5-15-56	Swift		4 Pts	90	27955	27385			570		570
5-15-56	J Morrell		17 Pts	642	165030	162530			2500		2500
	Val Decker		2 Pts	325	84655	83905			750		750
	Cudahy	S O	Palmyra	124	27170	26955	27050		120 Rew		120
	Hygrade		3 Pts	133	26250	26445	25850		400 Rew		400
	Kingan		10 Pts	639	139360	137350			2010		2010
	Swift		2 Pts	109	25135	25135			0		0
	Belvidere	2 Pts	[illegible] 43 [illegible] 24	103	26860	26865			5	5	
5-16-56	Val Decker		[illegible]	133	27950	27805	27310		640 Rew		640
	Tiner	Ia	3 Pts	111	25050	25050	24990		60 Rew		60
	"	"	3 Pts	110	24695	24385			310		310
	Cudahy	S O	[illegible]	122	26810	26475	26810		0 Rew		
	Hygrade		3 Pts	138	27250	26885	26850		400 Rew		400
	Tiner	Alton	2 Pts	125	27670	26915	27840		170 Rew	170	
	Hormel	8 Pts	[illegible] 43	384	56610	53710			[illegible]		[illegible]
	J Morrell	8 Pts		144	53930	52995			935		[illegible]
5-17-56	Cudahy	S O	2 Pts	117	22255	22185	26215		35 Rew		35
	Cudahy	Phoenix	3 Pts	124	26425	26425	26345		80 Rew		80
	"	"	[illegible]	124	26840	26840	26720		120 Rew		120
	[illegible]		3 Pts	131	26315	26315	26275		40 Rew		40
	Escar [illegible]		3 Pts	127	27205	26805	26475		730 Rew		730
	J Morrell		3 Pts	113	28470	27970	27720		750 Rew		750

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Date	Sold to		Shipped From	Hogs No. Head	Invoice Weights	Our Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
5-18-56	Cudahy	Chicago	Mt. Sterling	126	26800	26700			100		100
	✓	SD	2 Pts	110	25380	25380	25210		170 Rew		170
	Tiner	LA	Decatur	229	53805	53655			150		150
	✓	✓	2 Pts	116	27015	27015			0		0
	Tring		Mt. Sterling	126	27575	27475			100		100
	✓		Macon	134	28110	28110	27870		240 Rew		240
	✓		Spgfld	124	26765	26765			0		0
	Fugge		2 Pts	140	26640	26380			260		260
5-19-56	Swift		All Canal Pts	448	143195	142275			920		920
	Crown		6 Pts Bushnell 63	113	26050	26050			0		0
	Tring		Baring	128	27670	27670	27570		100 Rew		100
	Tobin		Mt. Sterling	117	27650	27585			65		65
	✓		4 Pts	235	52820	52820			0		0
	Fugge		Mt. Sterling	142	28550	28090			460		460
	✓		4 Pts	124	25370	25070			300		300
	Clougherty		2 Pts	109	24725	24725	24770		5 Rew	5	
	Amerikal		5 Pts	254	53075	53065	52930		145 Rew		145
	Amerikal		Decatur	136	27700	27590	27870		170 Rew	170	
5-21-56	Tobin		2 Pts	121	27620	27420	27620		200 Rew	200	
	✓		3 Pts	228	51405	51065	51405		0		0
	Val Decker		5 Pts	256	56080	55580			500		500
	Swift		11 Pts	147	53990	53090			900		900
	Home		4 Pts Spgfld 87	296	53210	52885			325		325
	Amerikal		2 Pts	122	26230	26170			60		60

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Date	Sold To	[illegible]	Shipped From	[illegible]	Invoice Weight	[illegible]	[illegible]	[illegible]	Weight Difference	Weight Deducted	Weight Added
5-21-56	[illegible]		2 Pts	136	~~29170~~	29170	29010		160 Rev		160
	✓		2 Pts	125	27950	~~27825~~	27950		0		0
	Cudahy	58	Omaha	124	27225	27225	27000		225 Rev		225
	"	✓	Palmyra	125	27425	27400	27425		0		0
5-22-56	Kingan		5 Pts	246	53610	53210			400		400
	"		2 Pts	388	83225	82425			800		800
	"		Springfield	400	84470	No Weight			—		—
	Val Decker		4 Pts	251	54700	53955			745		745
	Figge		3 Pts	137	26520	26170			350		350
	[illegible]	IA	Springfield	235	55190	55190			0		0
	Belvedere		7 Pts Parma 26	108	26365	26255			110		110
*	Swift		6 Pts Parma to Springfield 130	400	145460	144260		145500	1200		1200
5-23-56	Figge		3 Pts	133	26220	25830	25870		350 Rev		350
*	Hormel		4 Pts Springfield 68	301	53350	52530			820		820
*	Swift		4 Pts Parma 65	147	62320	61640			680		680
	Kingan		11 Pts	627	138175	137530			645		645
	Val Decker		Chippewa + 2 Pts	251	55600	55100			500		500
5-24-56	Morrell		Ottumwa	127	26185	26185			0		0
	Val Decker		4 Pts	264	58205	57705			500		500
	[illegible]		[illegible]	118	26755	26755	26630		125 Rev		125
	Kingan		3 Pts	250	54350	53850			500		500
*	Hormel		6 Pts Springfield 23	281	53820	53390			430		430

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Date	Sold to	Shipped From	Hogs No. Head	[redacted]	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
5-25-36	[illegible]	2 Pts	144	27560	27560	27210		350 Rw		350
	[illegible]	2 Pts	131	29055	28705			350		350
	✓	Dallas	124	26590	26370	26230		360 Rw		360
	✓	2 Pts	118	26420	26055	26120		300 Rw		300
	✓	2 Pts	125	27105	27105			0		0
	✓	3 Pts	123	28010	27665			345		345
	18 [illegible]	9 Pts	401	84185	83095			1090		1090
5-26-36	Swift	[illegible] Pts	400	162945	162950			5	5	
	Kingan	6 Pts	332	73470	72970			500		500
	[illegible]	5 Pts	87	27690	27680			10		10
	[illegible]	4 Pts	235	51630	51170			460		[illegible]
	[illegible]	3 Pts	133	29255	29255			0		
	[illegible]	2 Pts	128	27500	27400			100		100
5-28	[illegible] Co	Palmyra	116	27185	27075	27185		0		0
	✓	2 Pts	104	25075	25075	24680		395 C[illegible]		[illegible]
	Kingan	12 Pts	633	135650	134150			1500		1500
	Kingan	3 Pts	148	27200	26925	26650		550 C[illegible]		550
	Swift	4 Pts	71	30375	30030			345		345
*	18 [illegible]	6 Pts Springfield	300	55230	54615			615		615
5-29	Kingan	Springfield	139	28990	28990			0		0
	✓	6 Pts	255	55500	54750			750		750
	Belvedere	[illegible]	106	26680	26685			5	5	

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	Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight Added
*	5-30-56	Hormel	7 Pts Spfld 26	280	53725	53215			560		560
650		Val Decker	5 Pts	236	53450	53450			0		0
*		Swift	7 Pts Spfld 23	157	58210	58010			200		200
	5-31-56	[illegible]	O	136	53105	52730	52305		800 Rev		200
			Quincy	136							
		[illegible]	Dallas	258	57130	56825	56630		500 Rev		500
		[illegible]	Macon	115	25235	25235	25400		235 Rev		235
			Berry	120	25925	25895	25825		100 Rev		100
		Kingan	10 Pts	1036	228190	225320			2870		2870
*		Hormel	3 Pts Spfld 14	286	56825	55865			960		960
		[illegible]	2 Peoria 78	95	25655	25655			0		0
					8,673,960						

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	Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight Difference	Weight Deducted	Weight added
	6-1-56	[illegible]	Barry	132	27415	27015		—	400		400
	″	″	Marion	120	26975	26975	270.00	—	25 on Reweigh	25	
	″	Marhel	[illegible]	123	26355	26355	—	—	0	0	0
	″	Wilson & Co [illegible] NC	7 Pts	347	88360	87660	—	—	700		700
	″	Heil	6 Pts	398	87540	85385	—	84825	2155		2155
	″	I Klayman	yards & Springfield 124 hd	154	26040	25750	—	—	290		290
	″	Oscar Mayer	6 Pts	199	84100	83060	—	—	1040		1040
	6-2-56	[illegible]	Quincy	134	29340	29340	28930	—	410 on Reweigh		[illegible]
*	″	Hormel	3 Pts Bushnell 64 hd	281	57725	56925	—	—	850		850
	″	Kingan	6 Pts	257	57915	57165	—	—	750		750
	6-4-56	Tobin	2 Pts	113	24365	24365	24150	—	215 on Reweigh		F
	″	Luer Los Angeles	2 Pts	100	25860	25860	25850		10 on Reweigh		0
	″	Figge-H	3 Pts	131	26790	26400	26490		300 on Reweigh		[illegible]
*	″	Kingan	9 Pts + Bushnell 94 hd	306	108705	105520	—	—	[illegible]		[illegible]
*	″	Hormel	6 Pts Springfield 30 hd Bushnell 25 hd	293	57420	56500	—	—	920		920
*	″	John Morrell	yards 72 hd +	337	135365	134020		131390	1345		1345
	6-5-56	Nat'l Packing	2 Pts & Bushnell 57 hd	221	52055	51535		49400	500		500
	″	Kingan	7 Pts	390	83960	82960	—	—	1000		1000
	″	Oscar Mayer	3 Pts & Bushnell 30 hd	56	25720	25720	—	—	0	0	0
*	″	Hormel	3 Pts & Springfield 36 hd	151	29750	29310		—	440		440
	″	Belvedere	yards & Bushnell 57 hd	110	27620	27620	—	26540	0		0
	6-6-56	Figge-H	2 Pts	233	27430	26695	27170	—	260 on Reweigh		[illegible]
	″	Kingan	7 Pts	371	81535	80735	—	—	800		800
	″	Hormel	2 Pts + Bushnell 120 hd	257	52025	52000			25		25
	″	Val Decker	2 Pts + Bushnell 122 hd	247	56115	56115	—	—	0	0	0

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Date	Sold to	Shipped From	Hogs No Head	Invoice Weights	Buy Weights		Through Weights (off Show)	Off truck Weights (off Show)	Weight Difference	Weight Deducted	Weight Added
6-7-56	Belvidere	3 Pts + Bushnell 2 [illegible]	115	27630	27620		–	–	10		10
6-7-56	Kingan	13 Pts	752	160680	158810	+35 -35	–	–	1870		1870
"	Tobin	[illegible]	118	27105	27105		–	–	0		0
* "	Hormel	2 Pts + Springfield [illegible]	159	27280	27160		–	–	120		120
"	Frigg-H	2 Pts	134	26715	26465		–	–	250		250
"	Tovey	Palmyra	117	26080	26080		26315	–	235 Through	235	
6-8-56	Tovey	2 Pts	128	28105	28350		–	–	245	245	
"	"	Springfield	223	49335	49335		–	–	0	0	0
"	Oscar Mayer	6 Pts	132	57650	57015		–	55745	635		635
"	Kingan	9 Pts	265	54670	54530	+35	–	52935	140		140
6-9-56	Kuhff NY	6 Pts + Bushnell 75	244	64980	64960		–	–	0	0	0
"	Belvidere	6 Pts Bushnell 39 Farm 36	107	25635	25625		–	–	10		10
"	Kingan	9 Pts	353	82890	82540		–	–	350		350
"	Frigg-H	Chalmers	136	26305	26305		–	–	0	0	–
"	[illegible]	[illegible]	134	27550	27550		–	–	0	0	–
6-11-56	[illegible]	3 Pts	135	25890	25535		25620		270 Through		270
* "	Hormel	8 Pts Springfield 35	398	85490	74693		–	–	800		800
"	Kingan	5 Pts	242	54420	53955		–	–	465		[illegible]
"	[illegible]	4 Pts	69	27030	27030		–	[illegible]	[illegible]		
6-12-56	[illegible]	5 Pts	398	87835	87635			[illegible]	200		[illegible]
* "	Kingan	13 Pts + Springfield [illegible]	734	198325	196825	[illegible]	–	–	1500		1500
"	[illegible]	[illegible]	206	53365	[illegible]		[illegible]	–	[illegible]		[illegible]
6-13-56	[illegible]	3 Pts + Springfield 19 [illegible] Bushnell 57 [illegible]	304	[illegible]	55930		–	[illegible]	[illegible]		[illegible]

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Buy Weights	Reweigh Weights of Others	Off Truck Weights of Others	Weight Difference	Weight Deducted	Weight Added
6-13-56	Kingan	7 Pts	487	108220	108220	–	104440	0	0	0
″	Independent	11 Pts	344	86755	86065	–	83845	690		690
6-14-56	Brushel	2 Pts	131	28730	28430	–	–	300		300
″	Frigge - H	2 Pts	131	26845	26545	–	–	300		300
″	Cudahy Phenix	Wh Sterling	122	26210	26210	–	–	0	0	0
″	Belvidere	3 Pts & Peoria 77 hd	113	29660	29660	–	27975	0	0	0
″	Kingan	Springfield	216	50865	50865	–	–	0	0	0
″	″	7 Pts	383	81760	80880	–	–	880		880
″	[illegible]	4 Pts	78	29220	28885	28370		850 on Reweigh		850
″	Independent	4 Pts	61	23745	23750	–	–	5	5	
* ″	Horne	3 Pts & Springfield 28 hd	145	27040	26845	–	–	195		195
6-15-56	[illegible]	8 Pts	361	81220	80215	–	78700	1005		1005
″	Independent	5 Pts	80	28805	28505	–	28100	300		300
″	Tring	Macon	132	27875	27575	27595	–	280 on Reweigh		280
″	Tri in	Chapman	119	28410	28410	–	–	0	0	0
″	Frigge - H	Chapman	143	28185	27855	27835		350 on Reweigh		350
″	Kingan	2 Pts	116	24645	24640	–	23770	5		0
6-16-56	Tobin	Whiting	117	26505	26365	26405		100 on Reweigh		100
″	Tring	2 Pts	123	26880	26745	26780		100 on Reweigh		100
″	Kingan	3 Pts	494	105385	103595	–	102?30	1790		1790
″	Belvidere	5 Pts & Bushnell (32 hd)	91	28645	28595	–	–	50		50
″	Horne	2 Pts & Bushnell 78 hd	158	26520	26510	–	–	10		10
″	[illegible]	7 Pts & Bulk	306	83010	82990	–	79675	20		[illegible]
6-18-56	[illegible]	5 Pts	80	32070	31870		31250	200		200
″	Frigge & H	2 Pts	137	26225	26275	25870		[illegible]		[illegible]

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Date	Sold to	Shipped from	Hogs No. Head	[illegible] Weight	[illegible] Weight	[illegible] Weight of Hogs	[illegible] Weight of Hogs	Weight Difference	Weight Deducted	Weight Added
6-[illegible]-56	[illegible]	7 Pts	375	83570	82770	—	—	800		800
6-18-56	Tiner Ia	3 Pts	119	27930	27930	—	—	0	0	0
* ″	Horne	5 Pts Bushnell 14 hd Springfield 53 hd	417	81790	80690	—	—	1100		1100
6-19-56	John Morrell	10 Pts	310	75685	74990	—	73690	695		695
″	Independent	4 Pts Bushnell 17 hd Springfield 14 hd	50	23045	23635	—	22635	400	400	
″	Beiradine	3 Pts + Princeton 6 Bushnell 12	100	29495	29495	—	27780	0	0	0
″	Tiner Ia	Barry	109	27115	27115	—	—	0	0	0
6-20-56	John Morrell	11 Pts	451	105540	104540		102540	1000		1000
* ″	Horne	5 Pts + Springfield 63 hd	415	84200	83355	—	—	845		845
″	Figge-H	Quincy	147	28900	28775	28500		400 on [illegible]		400
″	Swift G.I.	4 Pts	61	26210	25910	—	25520	300		300
6-21-56	J. Morrell	6 Pts	210	52005	51635	—	50380	370		370
* ″	Dave Mayer	4 Pts + Bushnell 33	164	50295	50195		48925	100		100
6-22-56	Figge-H	2 Pts	129	25990	25700	25690		300 on [illegible]		300
* ″	Oscar Mayer	5 Pts + Bushnell 14	165	55490	55030	—	—	460		460
″	Merkel	Media	133	28625	28625	—	—	0	0	0
″	Tiering	Mt Sterling	277	49105	49105	48770		335 on [illegible]		335
6-23-56	J. Morrell	20 Pts [illegible]	529	138230	137125	—	134540	1105		1105
* ″	Beiradine	3 Pts + Perrin 34 hd	138	24665	24365	—	—	300		300
″	Figge & A	2 Pts	142	27100	26820	—		300		300
″	Coast Ia	Quincy	111	27685	27685	27590		95 on [illegible]		95
″	Merkel	Chapin	130	27080	27080	—	—	0	0	0
″	″	3 Pts	128	25950	25950	—	—	0	0	0
″	″	2 Pts	126	27030	26935	26930		100 on [illegible]		100

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Date	Sold to	Shipped from	Hogs No. Head	Invoice Weight	Buyer Weight	Weight (of [illegible])	Weight ([illegible])	Difference	[illegible]	[illegible]
6-23-56	[illegible]	Palmyra	138	28325	28325	28010		285 on [illegible]	0	-
6-25-56	Swift NSY	6 Pts + Bushnell 44	274	71045	71045	-	-	0	0	-
"	[illegible]	Dexter	126	26600	26600	-	-	0	0	-
"	Figge & H	2 Pts	141	28245	27945	-	-	300		300
"	"	2 Pts	125	25360	25360	24990		370 on [illegible]		[illegible]
"	Home	3 Pts	134	23795	23505 [illegible]	-	-	290		[illegible]
"	J. Morrell	9 Pts	469	110080	109625	-	107290	455		[illegible]
6-26-56	J. Morrell	10 Pts	743	170890	169260 +75 [illegible]	-	166240	1630		[illegible]
"	Swift NSY	3 Pts	66	28265	27965	-	27560	300		[illegible]
"	Wilson & Co. - [illegible] KC	Baldwin 4 Bushnell 31	85	24345	24345	-	-	0	0	-
"	Home 8 Pts	Bushnell 44 Springfield 26	381	54250	54250	-	-	0	0	-
6-27-56	Arnold & Hirsch	2 Pts	141	28320	28320	28180		140 on [illegible]		[illegible]
"	Independent	2 Pts	114	27910	27795	-	26945	115		[illegible]
"	[illegible] La	2 Pts	116	28065	28065	-	-	0	0	-
"	" "	3 Pts	104	25360	25370	25180	-	180 on [illegible]		[illegible]
"	Figge & H	2 Pts	141	27525	27225	-	-	300		[illegible]
"	"	2 Pts	138	26400	26055	-	-	345		[illegible]
"	Kingan	9 Pts	873	185920	185920	-	179265	0	0	
* "	Swift	4 Pts & Springfield 18	65	24265	24115		23500	150		[illegible]
"	Belvedere	7 Pts & Peoria 63	119	27760	27760	-	26420	0	0	-
6-28-56	Swift	4 Pts	67	24265	24350	-	23670	35	35	
"	Oscar Mayer	2 Pts	122	29495	29355	-	28625	140		[illegible]
"	Home	10 Pts	416	82360	81710	-	-	650		[illegible]
	[illegible]	2 Pts	129	26500	26500	26250		250 on [illegible]		[illegible]

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Date	Sold to		Shipped from	Hogs No. Head	Invoice Weights	Buyer Weights	Reweigh Weights (if shown)	Off truck Weights (if shown)	Weight difference	Weight deducted	Weight added
6-28-56	[illegible]	[illegible]	2 Pts	117	28080	28080	—	—	0	0	0
〃	[illegible]		[illegible]	129	25620	25190	25310	-	310 on Reweigh		310
〃	Cudahy	San Diego	3 Pts	121	26225	26225	25930	-	295 on Reweigh		295
〃	〃	[illegible]	2 Pts	123	27305	27305	27065	-	240 on Reweigh		240
〃	Val Decker		[illegible]	122	27160	27060	—	2600	5	0	0
〃	Tovrea		[illegible]	114	24410	24410	24250	—	160 on Reweigh		160
〃	〃		[illegible]	223	50565	50090	50115	—	450 on Reweigh		450
6-29-56	〃		2 Pts	120	27730	27445	27730	—	0	0	0
〃	Cudahy	Phoenix	[illegible]	124	26010	26010	—	—	0	0	0
〃	[illegible]		3 Pts	117	26395	26395	26030	—	365 on Reweigh		365
〃	〃		2 Pts	127	26145	26145	-	-	0	0	0
〃	[illegible]		[illegible]	107	27425	27225		—	200		200
〃	Oscar Mayer		5 Pts	195	57780	57375	—	56265	405		405
〃	[illegible]		5 Pts	155	25790	25790	25165	—	625 on Reweigh		625
6-30-56	Heil		12 Pts	496	109650	108150	—	—	1500		1500
〃	Independent		5 Pts	86	32070	32065		30940	5		5
〃	[illegible]		[illegible]	125	25920	25820		-	100		100
〃	〃		2 Pts	136	27210	26000	26910		300 on Reweigh		300

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	Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight		Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
*	7-2-56	Home Pk. Co., Pomona	Sp. 55	123	28535	28265		–	–	270		270
	–	Swan	M. Col.	105	27740	27940		27590	–	150 Reweigh		150
	–	Kingan	4 Pts.	142	29195	28895		–	27225	300		300
	–	Cudahy, San Diego	Pa. Ag.	118	26065	26065		25925	–	130 Reweigh		130
	–	Higgs + Hunt	Og.	129	25880	25880		26250	–	Inc 370 Reweigh	370	
	–	Independent	3 Pts.	75	28630	28325		27955 →	–	305		305
	3	Val Decker	Ont. Pr.	248	54140	53640		–	–	500		500
	–	Higgs + H	Cl. Jct.	121	25590	25590		–	–	0		
	–	Hunter	9 Pts	420	93810	93665		–	90905	145		145
	–	Merkel	Ag.	138	28000	27830		27900	–	100 Reweigh		100
	–	Cudahy	Md. Col.	122	26075	26075		25875	–	200 Reweigh		200
	–	Swift, NSY	6 Pts.	85	31380	31380		–	30080	0		
	–	Carrett	Ag. Pal.	123	27390	27130		27320	–	70 Reweigh		
*	–	Belvedere	Ro-20, 4 Pts. + Pa. 81	103	28595	28495		–	–	100		100
*	5	Swift, NSY	Sp. Dec. 112	208	86550	85880		–	–	670		670
	–	McDowell	3 Pts.	445	128090	126915		–	124480	1175		1175
	–	[illegible]	4 Pts.	297	53760	53230		–	–	530		530
	–	Val Decker	4 Pts.	238	51810	51410		–	–	400		400
	–	[illegible]	R-Ch.	105	27365	27165	[illegible]	–	–	200		200
	–	Cudahy Pk., San Diego	Sp.	121	29265	29265		–	–	0		
	–	Cudahy Pk., San Diego	Ag.-Pal.	126	28400	28240		–	–	160		160
	–	Irving	Sp.	485	98170	98170		–	–	0		
	6	Hunter	7 Pts.	256	63175	62560		–	61215	615		615

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Date	Sold To	Shipped from	Hogs in Load	Invoice Weights	Purchase Weights	Reweigh Weight (Of [illegible])	Off-Truck Weights (Of [illegible])	Weight Difference	Weight deducted	Weight added
658 — 7-6-56	L. K. Longman	Cl	162	27635	27635	–	–	0		
–	Tobin	Gy	121	26265	26115	26060	–	205 Reweigh		205
7	Heil	6 Pts	440	99960	98555	–	–	1405		1405
–	Tierney	3 Pts.	136	28680	28680	28450	–	230 Reweigh		230
–	Frigge & H	4 Pts.	145	28355	28355	–	–	0		
–	Hunter	6 Pts	256	54635	54255	–	52975	380		380
–	Swift NSY	Bu-31 11 Pts. +	272	78910	78910	–	–	0		
–	Rob. Cline	Pen-31 Gy-17 Pts +	83	26705	26695	–	–	10		10
9	Haase, Terre Haute	10 Pts + Bu 34 Sp 43	427	76210	76210	–	–	0		
–	Val Decker	4 Pts.	248	54615	54115	–	51200	500		500
–	Swift, NSY.	3 Pts + Bu 50	71	26195	26195	–	25440	0		
–	Hunter	3 Pts.	108	24950	24550	–	–	400		400
10	Cochran	Cl Pen-118	152	27780	27780	–	–	0		
–	Oneida Hse	Gy Sp.-67	138	26755	26755	26640	–	115 Reweigh		115
–	Swift NSY	2 Pts + Sp.-80	147	56470	56470	–	–	0		
–	Val Decker	3 Pts.	132	29020	28915	–	28100	105		105
11	Val Decker	Ho- Bu-57	130	27610	27610	–	26400	0		
–	Hunter	12 Pts.	518	110750	110250	–	107305	500		500
–	Swift NSY	8 Pts	58	22400	21960	–	21360	440		440
12	Oscar Mayer	6 Pts + Sp-59	230	83645	83545	–	81260	100		100
–	Hunter	4 Pts.	472	105630	105010	–	102555	620		620
–	Lux	Gy.	100	27790	27790	27720	–	70 Reweigh		70
–	Tierney	Sp.	120	25455	25455	–	–	0		

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Date	Sold To	Shipped from	Hogs Weighed	Invoice Weight	Purchase Weight	Reweigh Weight (3¢ Plan)	Off-Truck Weight (3¢ Plan)	Weight Difference	Weight Deducted	Weight Added
7-12-56	Ireny	Pal	131	27990	27880	—	—	110		110
✓	Figge & H	Sn. Oy.	131	25260	24995	24960	—	300 Reweigh		300
✓	Merkel	Wts.	128	27765	27455	27655	—	110 Reweigh		
✓	Val Decker	Ada.	127	29235	29295	—	27880	0		
✓	Belvedere	140 4 Pts. 23	90	21580	21580	—	20640	0		
13	Merkel	Ch	122	27695	27695	26575) →		0		
✓	Merkel	Da	126	27560	27345	27460	—	100 Reweigh		100
✓	Figge & Hut	Sy	130	25290	25098	25620	—	160 Reweigh		160
✓	Ireny	3 Pts.	126	26995	26995	26590	—	425 Reweigh		425
14	Heil Pk	5 Pts.	210	45860	45705	—	44440	155		155
✓	Hunter	7 Pts.	404	94460	93950	—	91530	510		510
✓	Swift, N.S.Y	15 Pts. + Bu 80	353	121665	121565	—	117550	100		100
16	Figge & H	3 Pts.	148	28060	27800	27660	—	400 Reweigh		400
* ✓	Home	4 Pts. + 3P. 94	316	52990	52690	—	50990	300		300
✓	Cudahy Pkg, San Diego	Pal	127	28625	28470	28625	—	0 Reweigh		
✓	Hunter	9 Pts.	584	130905	129650	—	126960	1255		1255
✓	Heil	5 Pts.	238	51785	51785	—	49655	0		
✓	Independent	5 Pts.	83	27550	26960	—	26670	590		590
17	Hunter	8 Pts.	338	75295	75145	—	72930	150		150
✓	John Morrell	8 Pts.	193	55365	53735 on Mull 230	—	54560	1630		1630
✓	Swift, N.S.Y	Ro Ch	70	28000	27665	—	27080	335		335
✓	Belvedere	Bo 3 Pts. 54	104	27070	27070	—	—	0		
18	Figge & Hut.	3 Pts.	131	25170	25060	24870	—	300 Reweigh		300

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	Date	Sold To	Shipped From	Hogs No. Head	Invoice Weights	Purchase Weights	Reweigh Weights ([illegible])	Off-Truck Weights ([illegible])	Weight Difference	Weight Deducted	Weight Added
	9-18-56	Hunter	12 Pks.	483	104270	105965	—	102975	305		305
	—	Independent	4 Pks.	102	27250	26805	—	26355	445		445
	19	Independent	9 Pts.	140	52930	52970	—	52230	40	40	
	—	Scioto NSY	3 Pts.	99	33475	32885	—	32320	590		590
	—	Coast	Ch.	237	54800	54800	—	—	0		
	—	Froggy + H	Ch	142	27660	27345	27360	—	300 Reweigh		300
	—	I Klayman	Ch	153	26510	26310	26060	—	450 Reweigh		450
	—	Val Decker, Pugin	4 Pts.	396	82340	81840	—	—	500		500
	—	Irving	3 Pts.	137	28050	28050	27810	—	240 Reweigh		240
	—	Irving	Mts.	131	28110	28110	—	—	0		
	—	Irving	Ba-Qy.	119	26570	26470.	26540	—	30 Reweigh		30
	—	Irving	3 Pts	125	26705	26705	26455	—	250 Reweigh		250
	—	Hunter	3 Pks.	443	102295	101495	—	99180	800		800
*	—	Home Pkg Pugin	4 Pts. + Bu-100 SP 41	290	50740	50440	—	—	300		300
	20	Irving	Mts.	134	28020	28020	—	—	0		
	—	Irving	Ch	118	27690	27690	—	—	0		
	—	Irving	Pal	131	28320	28165	28320	—	0 Reweigh		
	—	Frigid Hut.	Ch	133	26575	26190	—	—	385		385
	21	Irving	Ea	124	27190	27040	27190	—	0 Reweigh		
	—	Irving	Mts.	130	27460	27160	—	—	300		200
	—	Markel	Ch.	125	27875	27875	—	—	0		
	—	Klayman	Ch	161	27810	27810	—	—	0		
	—	Home	N. Pa	142	27270	27070	—	—	200		[illegible]

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	Date	Sold	To	Shipped from	Hogs no. Head	Invoice Weight	Purchase Weight		[illegible] Weight ([illegible])	Off Store Weight ([illegible])	Difference	Weight Deducted	Weight Added
	9-21-56	Wilson & Co.	Kansas City	[illegible] 44	67	26220	26220		—	—	0		
	✓	Hunter		5 Pts.	245	54500	53850		—	52865	650		650
	✓	Hiel		3 Pts.	212	44600	43715		—	43220	885		885
*	✓	Kingan		Au-Sy 11 Pts.	565	136985	135985		—	—	1000		1000
	23	Tobin		Ch. Ar.	111	26585	26410		26585	—	0	Reweigh	
	✓	Hiel		Oy-mts.	245	56470	55325		—	26410	1145		1145
	✓	Hunter		9 Pts.	475	102060	102060		—	98645	0		
	✓	Swift	N.Y.	Pal	14	4660	4555		4510	—	150	Reweigh	150
	24	Kingan		7 Pts.	229	56370	56370		—	—	0		
	✓	Belvedere		Peo 3 Pts + 41	121	30385	30725		—	—	340	340	
	✓	Tobin		3 Pts.	127	28030	28030		27850	—	180	Reweigh	180
*	✓	Home Pk.		Sp- 2 Pts. + 92	303	52085	51855		—	—	230		230
	✓	Hunter		9 Pts.	494	110075	110075		—	106540	0		
	✓	Oscar Mayer		6 Pts.	77	28580	28580		—	27665	0		
	25	Oscar Mayer		6 Pts.	130	48310	48310		—	—	0		
	✓	Kingan		6 Pts.	449	102220	101220	105 mts.	—	—	1000		1000
	✓	Home		7 Pts.	365	73725	72935	120 mts.	—	—	790		790
	26	Merkel		Oy.	137	28360	28360		—	—	0		
		Irving		Pa-Oy.	117	25300	25185		25175	—	125	Reweigh	125
		Irving		Col-mad	128	27155	27155		—	—	0		
		Irving		Col-mts.	135	28220	28220		—	—	0		
		Tobin		Da-mts.	119	26270	26270		25910	—	360		360
		Home		6 Pts.	153	27970	27880		—	—	90		90

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Date	Sold	To	Shipped from	Hogs No. Head	Invoice Weight	Purchase Weight		Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
7-26-56	Oscar Mayer		6 Pts.	68	26660	26660		—	—	0		
✓	Kingan & Co.		8 Pts.	394	86645	85905		—	—	740		740
27	Klayman		Ch.	140	24665	24665		24665	—	0	Reweigh	
–	Truny		SP	126	25910	25910		—	—	0		
✓	✓		Da-Med.	121	26135	26135		—	—	0		
✓	Truny		Ch	115	24610	24610		24430	—	180	Reweigh	180
✓	Truny		Mts.	125	27545	27290		27545	—	0		0
✓	Tobin		Oy-Ba	125	27405	27405		26760	—	645	Reweigh	645
28	Swift	MSY	13 Pts.	278	86570	86355		—	83520	215		215
✓	Merkel		Oy	135	26915	26915		26840	—	75	Reweigh	75
✓	Coast		Nw.	120	26050	26050		—	—	0		
✓	Coast		Ch	236	52050	52050		—	—	0		
✓	Tobin		Mts Co	252	55925	55925	-200 lb	—	—	0		
✓	Tobin		Oy.	121	27370	27370		—	—	0		
✓	Tobin		Da	121	26175	26175		26190	—	15	15	
✓	Truny		Ch	126	26165	26165		—	—	0		
✓	Truny		Mar-Pd	130	26585	26585		26415	—	170	Reweigh	170
✓	Figge & H		Ch	139	26305	26005		—	—	300		300
✓	Cudahy,	Salt Lake	Mt Cd	121	35910	25910		25310	—	600	Reweigh	600
✓	Cudahy	Phoenix	3 Pts	141	28750	28750		—	—	0		
30	Figge & H		Oy.	131	25380	25315		25080	—	300	Reweigh	300
	Cudahy,	San Diego	Da-Med	120	26940	26940		26720	—	220	Reweigh	220
	Hunter		4 Pts.	601	132490	131330		—	128010	1160		1160

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weights	Purchase Weights		Reweigh Weights ([illegible])	Off Truck Weights ([illegible])	Weight Difference	Weight Deducted	Weight
7-30-56	Swift N.S.Y.	10 PAS	444	114595	113795		—	110505	800		800
31	Val Decker, Piqua	[illegible]	128	28405	28405		—	—	0		
✓	Swift N.S.Y.	[illegible]	171	57000	57000		—	—	0		
✓	Tobin	[illegible]	125	26200	26200		25890	—	310	Reweigh	310
✓	Oscar Mayer	6 PAS	189	57260	50860		—	49855	400		400
* ✓	Belvedere	5 PAS 2 Pio 32	97	28435	28360			26740	55		55

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Date		Sold To	[illegible]	[illegible]	[illegible] Weight	[illegible] Weight	Reweigh Weight (Off Scale)	Off Truck Weight (Off Scale)	Weight Difference		Weight Deducted	Weight Added
8-1-56		Hunter	[illegible]	[illegible]	[illegible]	[illegible]	—	138410	900			900
8-1-56	[illegible]	John Morrell	6 Pcs.	[illegible]	53190	53290	—	52520	900			900
8-1-56		St. L. Ind.	4 Pcs.	132	29005	29005	—	27925	200		200	
8-1-56		Swift, N.S.Y.	3 Pcs.	105	27855	27855	—	26710	0			
8-2-56		Cudahy Pk., Phoenix Ariz.	2 Pcs	129	27010	26845	26910	—	100	Reweigh		100
8-2-56	*	John Morrell	7 Pcs. + Bulls 35	165	56540	56135	—	54900	405			405
8-2-56		Hormel Pk.	6 Pcs	359	81270	81270	—	—	0			
8-2-56		Tovrea	3 Pcs.	130	27515	27515	—	—	0			
8-2-56		Frigge & Hutwelker	Cy.	145	27150	27030	26850	—	300	Reweigh		300
8-3-56		Frigge & Hutwelker	Cl.	137	26300	25560	26000	—	300	Reweigh		300
8-3-56		L. Kleyman	Cl.	155	25725	25215	—	—	510			510
8-3-56		Tovrea	3 Pcs.	126	26610	26610	26240	—	370	Reweigh		370
8-3-56		Tovrea	Hfs.	128	27295	27295	27010	—	285			285
8-3-56		Luer L.A.	Cy	98	25445	25445	—	—	0			
8-3-56		Luer L.A.	Cl.	115	27525	27260	27525	—	0			
8-3-56		Luer L.A.	Cut & Mix.	106	25100	25100	—	—	0			
8-3-56		Cudahy Pk.	Mex. Pa	132	27555	27555	—	—	0			
[illegible]		[illegible]	7 Pcs. + Bulls 42	90	27090	26865 m 57 [illegible]	26025	)	225			225
8-4-56	*	Swift	Bulls 39 9 Pcs +	163	55010	54810	—	—	200			200
8-3-56		[illegible]	8 Pcs	72	26230	26130	—	25430	100			100
8-4		Heil	10 Pcs.	420	92150	90865		89120	1285			1285
—		Tobin	Cl	120	26890	26690	—	—	200			200
—		Tovrea	3 Pcs	119	25790	25690	—	—	150			150

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	Date	To		Shipped From	Hogs No. Head	Invoice Weights	Purchase Weights	Reweigh Weights (If Shown)	Off Truck Weights (If Shown)	Weight Difference	Weight Deducted	Weight Added	
	8-4-56	[illegible]		5 Pts.	138	27295	[illegible]	—	—	1100		1100	
	✓	Figge		Ch.	140	27120	26920	—	—	200		200	
	6	Val Decker		5 Pts	249	52030	51730	—	—	300		300	
	✓	Heil		4 Pts	181	39750	39350	—	38515	400		400	
	✓	Home Pk		Dia.	100	25780	25790	—	24660	10	10		
	✓	Tobin		Da	133	28160	27845	27910	—	250 Reweigh		250	
	✓	Figge		Pol Ay.	138	26650	26405	26250	—	400 Reweigh		400	
	✓	Cudahy	San Diego	Pal	131	28990	28835	28900	—	90 Reweigh		90	
*	✓	Swift N.S.Y.		9 Pts + Bu 21	200	56230	55470	—	54220	760		760	
	✓	Luer	, L.A.	Sa	159	37270	37070	37000	—	270 Reweigh		270	
	✓	Tobin		Hr Mtn.	131	29250	29115	—	—	135		135	
	✓	Figge		4 Pts	127	25455	25075	25100	—	375 Reweigh		375	
	✓	Independent		5 Pts	107	26250	26210		25345	70		70	
	✓	Swift		6 Pts	80	27880	27690		26930	190		190	
	8	Belvedere		3 Pts + Pal - 60 Da - 30	109	30895	30895	29020 →	—	0			
*	✓	Home		7 Pts + S.P. 87	409	83435	82960	—	—	475		475	
	✓	Independent		4 Pts.	200	52380	52240		49980	140		140	1 Crip
	✓	Oscar Mayer		4 Pts	242	58890	58725	—	57120	165		165	
	✓	Figge		G.	141	28550	28295	28150	—	400 Reweigh		400	
	✓	Swift		Da Pal	92	27910	27565	—	26970	345		345	
	9	Home		4 Pts	269	54450	53910	—	—	540		540	
	✓	Oscar M		8 Pts.	277	72800	72800	—	70520	0			✓
	✓	Little Rock Pk,	Little Rock Ark	2 Pts.	118	28420	28420	—	—	0			

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Date	Sold To		Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
8-10-56	Clougherty		Ms.	241	53[illegible]50	52950	53150	—	300 Reweigh		300
✓	Coast		Ch.	123	27665	27665	—	—	0		
✓	Coast		Ba.	112	26755	26755	26315	—	440 Reweigh		440
✓	Treuny		Bg.-Ma.	238	48695	48695	48050	—	645 Reweigh		645
✓	Frizzle		Cl.	144	27475	27115	—	—	360		360
✓	Frizzle		2 Pts.	134	25950	25885	25650	—	300 Reweigh		300
✓	Heil		7 Pts.	528	116440	116045	—	113110	795		795
✓	Swift		7 Pts.	117	42585	41925	—	41300	660		660
11	Independent		9 Pts. + An-10	194	56615	56620	—	—	5	5	
✓	I. Klayman		Ch.	156	25780	25480	—	—	300		300
✓	Treuny		Da. Col.	138	27965	27965	—	—	0		
✓	Treuny		Gr. Pal.	139	27815	27875	—	—	60	60	
✓	Coast		Ay. Mts.	111	27590	27590	27500	—	90 Reweigh		90
✓	Coast		Pa.-Gr.	124	27810	27655	27810	—	0 Reweigh		
13	Belvedere		2 Pts. + Pa-29 An-36	85	25015	25015	—	—	0		
* ✓	Swift		9 Pts. + Sp. 79	320	105990	105490	—	102240	500		500
✓	Tobin		Sp.	253	57585	57585	—	—	0		
✓	O'Neill & Hen		Pal.-Ay.	134	26220	26220	26120	—	100 Reweigh		100
✓	Kingan		Dec.	84	19450	19415	—	18810	35		35
* ✓	Hunter		8 Pts. + Sp. 281	662	139750	138750	—	—	1000		1000
14	Swift		6 Pts.	126	42880	42280	—	41400	600		600
✓	Hunter		7 Pts.	451	99000	98100	—	—	900		900
✓	Kingan		3 Pts.	130	29070	28785	—	28090	285		285

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Date	Sold to	Shipped From	Hogs No. Head	Invoice Weights	Purchase Weights		Reweigh Weights ([illegible])	Off Truck Weights ([illegible])	Weight Difference	Weight Deducted		[illegible]
[illegible]	[illegible] Pk. Co. Calif	5 Pts.	108	24810	24910		24665	—	245	Reweigh		[illegible]
—	[illegible]	Ba-Cy.	134	26740	26760		26130	—	610	Reweigh		[illegible]
—	[illegible]	[illegible]	138	24950	24685		—	—	265			265
[illegible]	Independent	7 Pts.	62	23750	23355		—	22925	395			[illegible]
—	Home	2 Pts. + Sp. [illegible]	153	26800	26800		—	—	0			
—	[illegible]	Ch.	108	24995	24995		—	—	0			
—	Hunter	4 Pts	535	114670	114640		—	111610	30			30
[illegible]	[illegible]	4 Pts. + [illegible]	112	28[illegible]	22950		—	—	65		65	
—	Independent 4	Ch	130	28420	27[illegible]5		—	27310	435			[illegible]
—	Mitchell	Sa	135	28210	22010		27940	—	270	Reweigh		270
—	[illegible]	[illegible]	138	27440	27105		27140	—	300	Reweigh		300
—	—	Ch	143	27160	26895		—	—	265			265
—		Ch	119	27440	27240		—	—	200			200
—	[illegible] 22	Sa	127	28250	28550		[illegible]8010	—	240	Reweigh		[illegible]
—	[illegible]	[illegible]	269	57410	[illegible]		—	—	0			
—	[illegible]	12 Pts.	268	61280	60[illegible]0		—	58960	1600			[illegible]
—	Hunter	13 Pts.	774	162105	160565 [illegible]		—	—	1540			500
[illegible]	[illegible]	Ch	127	26570	26570		—	—	0			
—	[illegible]	Gy.	123	27330	27230		—	—	100			[illegible]
—	[illegible]	[illegible]	116	25135	25135		—	—	0			
—	[illegible]	Gy. [illegible]	144	27055	27005		26720	—	285	[illegible]		
—	[illegible]	Ch.	113	26175	25875		—	—	300			[illegible]
—	[illegible]	Sa.	117	26190	26190		—	—	0			

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight		Reweigh Weight (If Taken)	Off Truck Weight (If Taken)	Weight Difference	Weight Deducted	Weight Added	
8-18-56	Frigge & Hutwelker	Ch. Joy	144	28360	28045		27960	-	400 Reweigh		400	
-	Klingeman	4 Pts. + Bu-55	161.	26565	26565		-	-	0			
-	Tobin	Md Ba	126	27070	26970		-	-	100		100	
-	Swift	5 Pts.	120	35955	35955		-	34150	0			
-	Independent	4 Pts.	112	29305	29005			28250	300		300	
-	Belvedere	8 Pts. + Bv-17 + Peo 15	78	25450	25450	7474.	-	-	0			Cr. L Sieur
-	Hunter.	8 Pts.	584	127945	126945		-	-	1000		1000	
20	Tobin	Ba Bg	125	27350	27250		27170	-	180 Reweigh		180	
-	Frigge Hutwelker	5 Pts.	142	26845	26845		26680	-	165 Reweigh		65	
-	Luer	Ch. Jy	125	27990	27865	-80	-	-	125		125	
-	Luer	Pal	120	27095	27095		-	-	0			
-	Hunter	12 Pts.	477	101455	100235	+300 Med.	-	-	1220		1220	
-	Swift N.Y.	8 Pts.	94	37065	36775		-	35770	290		290	
21	Swift N.Y.	4 Pts.	93	32555	31755	+25 wk.		31010	800		800	
-	Luer	Ch. Joy	116	26455	26455		-	-	0			
-	Hunter	9 Pts. + Bu-128	482	102825	102825	+35 wk.	-	99445	0			
23	Independent	Ma Bg.	119	25990	25710		-	25060	280		280	
22	Swift N.Y.	4 Pts.	65	23230	22550		-	22430	680		[illegible]	
* -	Hunter	Peo. 109 9 Pts.	648	143955	142890		-	-	1065		1065	
* 23	Swift	4 Pts. + Bu-45	137	52495	51965		-	51280	510		[illegible]	
✓ -	Independent	8 Pts. + Sp. 81	352	80140	79720		-	76210	420		420	
-	Frigge	3 Pts.	142	27625	27375		27225	-	400 Reweigh		400	
-	-	Ba	125	27920	27920		27760	-	160 Reweigh		[illegible]	
-	Hunter	6 Pts.	514	111155	110430		-	107600	725		725	

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Date	Sold	To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
8-24-56	Heil Pk		6 Pts.	540	119390	117815		115355	1575		1575
〃	Frigge		Qy. Pal	139	26650	26445	26305	—	345 Reweigh		345
〃	Independent		6 Pts.	168	51540	50525		49615	1015		1015
〃	I. Kleyman		Ch.	151	25840	25655	25390	—	450 Reweigh		450
25	Tobin		Ch.	125	27785	27785	27640	—	145 Reweigh		145
〃	Tobin		Mts.	119	27945	27945	27795	—	150 Reweigh		150
〃	〃		Qy.	119	27290	27290	26940	—	350 Reweigh		350
〃	Belvedere		Peoria 3 Pts. + Br 17	119	27250	27250	—	25580	0		
〃	Hunter		10 Pts	933	203295	202295	—	196840	1000		1000
* 〃	Swift	N.S.Y.	9 Pts + Br-66	225	50660	50110	—	48900	550		550
27	Swift	N.S.Y.	3 Pts.	96	28180	27980		27100	200		200
〃	Home		5 Pts.	368	70280	70125	—	—	155		155
〃	Independent		6 Pts.	128	34900	34745	—	33590	155		155
〃	Hunter		5 Pts.	322	69670	69660	—	69505	10		10
〃	Tobin		Qy.	126	28150	27945	28025	—	125 Reweigh		125
〃	Irving		Bg.	122	24580	24460	24440	—	140 Reweigh		140
*28	Home		Sp. 4 Pts. + 57	146	26910	26765	—	—	145		145
〃	Independent		Mac. + Bg.	73	17365	17365	—	16720	0		
〃	Swift	N.S.Y.	7 Pts.	74	23765	23485	—	22940	280		280
〃	Belvedere		Peo. 36 4 Pts. +	78	22945	22945	—	21495	0		
* 29	Hunter		P.20.235 4 Pts. + G24	747	165980	165105	—	160365	875		875
* 〃	Home		Peony 6 Pts. +	283	55610	55495	—	—	115		115
〃	Independent		Mac.	120	27200	27025	—	26905	175		175

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Date		Sold To	Shipped From	Hogs No. Head	[illegible]	[illegible]	Reweigh Weights	Off Truck Weights	Weight Difference	Weight Deducted	Weight Added
8-29	56	Lee Pk.	Ag.	116	26780	26780			200		200
〃		Frigge + Hutcalka	3 Pts.	102	26335	26335	26160		175	Reweigh	175
〃		Swift Pr.	7 Pts.	82	26360	26180		25420	180		180
8-30	56	[illegible]	9 P.	141	29365	29365	—	—	0		
〃		Merkel	Da.	135	27585	27585	27420	—	165	Reweigh	165
〃		Frigge + H.	Pol.-Ag.	131	25460	25260	25100	—	360	Reweigh	360
〃		Oscar Mayer	6 Pts.	211	57805	57605	—	55775	0		
〃		Tobin	Ag.	118	26965	26965	26-20	—	0		
〃		Hunter	4 Pts.	254	56010	56010	—	54190	0		
31		Independent	Ag-Mon	102	25290	25000	—	24365	290		290
〃		D. R. Hoyman	Ch.	137	24410	24210	—	—	200		200
〃		Cudahy, Phoenix Ariz.	Da.	137	28190	28190	—	—	0		
〃		Clougherty	Ch.	244	55025	55025	—	—	0		
〃		Frigge H.	Ag-Pol	134	26465	26465	26030	—	435		

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9-1-56	Heil PK.	St. Louis	7 Points	628	138245	137235		-	-	1010		1010
9-1-56	Tobin PK.	Rochester, N.Y.	B&C.	124	27695	27695		-	-	0	0	0
9-1-56	Tobin PK.	Rochester, N.Y.	Ch.	114	26125	26125		-	-	0	0	0
9-1-56	Fuggy-Hutwelker, Co., New York		Ch.	123	25260	25020		24960		300 Reweigh		300
9-1-56	Markel Inc., Jamestown, N.Y.		Og.	123	26890	26890		-	-	0	0	0
9-3-56	Hunter PK., E. St. Louis		9 Points	455	99065	98605		-	95805	460		460
9-3-56	Swift, N.S.Y.		13 Points	317	101575	100880		-	-	695		695
9-3-56	Markel		2 Points	127	27500	27275		-	-	225	—	225
9-3-56	Tobin PK.		2 Points	240	53690	53690		-	-	0	0	0
9-4-56	Swift N.S.Y.		4 Points	70	27025	26755		-	26060	270	0	270
9-4-56	Hunter PK.		5 Pts.	740	165750	164600		-	159280	1150	0	1150
9-4-56	St. L. Ind. PK., St. Louis		7 Pts.	489	113625	112055		-	109360	1570	0	1570
9-4-56	Home PK., Terre Haute, Ind.		5 Pts.	367	82035	80935		-	77250	1100		1100
9-5-56	Swift, N.S.Y.		7 Pts.	490	107520	107530		-	103570	10	10	—
9-5-56	Hunter		Reg.-118 6 Pts.	615	137890	137890		-	132930	0	0	0
9-5-56	H.S. Ind. PK.		6 Pts.	218	53310	52800		-	51315	510	0	510
9-5-56	Fuggy + Hutwelker Co.		Og.	137	25485	25285		25070	-	415 Reweigh		415
9-6-56	Home PK.		3 Pts.	376	84250	83210		-	-	1040		1040
9-6-56	Fuggy + Hutwelker		6 Pts.	134	25930	25930		-	25405	0	0	0
9-6-56	I. Kleyman PK. Co., Phila.		4 Pts.	145	25080	24940		-	24565	140		140
9-6-56	St. L. Ind. PK.		10 Pts.	624	146695	145495		-	-	1200		1200
9-6-56	Graves PK.		3 Pts. + R208221.	132	30170	30760				590	590	

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672	7-6-56	Hunter Pk.	[illegible] from Spfg. 5 Pts +	869	196670	194100	—	190395	2570		2570
	9-6-56	Tierney Pork Store	Spfld.	265	54805	54505	—	—	0		
*	9-6-56	Swift, N.S.Y.	41 from Spfg. 5 Pts +	134	45625	45150	—	44040	475		475
*	9-7-56	Home Pk	3 Pts + Peo 105, Peo. 23	256	51955	51455	—	—	500		500
	9-7-56	Fugge + Hutwelker Co.	4 Pts.	137	26020	26020	25670	—	350	Reweigh	350
	9-7-56	J.J. Felin & Co., Phila.	Gy.	123	27925	27925	27650	—	275	Reweigh	275
*	9-7-56	Heil Pk. U.S.	7 Pts + Peo 119	744	169700	168200	—	—	1500		1500
	9-7-56	Tierney Pork Store	Pal	120	26465	26465	26290	—	175	Reweigh	175
	9-7-56	U.S. Ind. Pk. C.	4 Pts.	253	58810	57610		56640	1200		1200
	9-8-56	Swift N.S.Y.	7 Pts.	232	57240	57240	—	55390	0		
	9-8-56	J.J. Felin Co.	2 Pts.	120	27150	27630	27005	—	145	Reweigh	145
	9-8-56	J.J. Felin Co	2 Pts.	118	26505	26505	26285	—	220	Reweigh	220
	9-8-56	Tierney Pork Store	3 Pts.	238	52795	52795	—	—	0		
	9-10-56	Dougherty Bros. Pk. Co., Phila.	2 Pts.	119	25795	25695	-65	—	100		100
	9-10-56	Dougherty Bros.	Pal	122	27265	27030	—	—	235		235
	9-10-56	Swift N.S.Y.	11 Pts.	420	112675	111645	—	108370	1030		1030
	9-11-56	Hunter	8 Pts.	892	200970	199750	—	194550	1220		1220
*	9-10-56	Home Pk	4 Pts + Peo 111	424	85945	85210	—	—	735		735
	9-11-56	Dougherty Bros	Gy.	132	27625	27625	—	27390	0		
	9-11-56	U.S. Ind. Pk	4 Pts.	171	38270	37655	—	36875	615		615
	9-11-56	Swift N.S.Y.	6 Pts.	143	41915	41915	—	40120	0		

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7-11-56	Hunter Pk	12 Pts.	833	189170	187715	—	183125	1455		[illegible]
9-12-56	Swift NSY	5 Pts. & Bushnell 21	99	32645	32645	—	31640	0		
9-12-56	Hunter	3 Pts.	215	46610	46610	—	45975	0		
9-12-56	Clougherty Bros.	2 Pts.	120	25730	25730	25620	—	110 Reweigh		[illegible]
9-12-56	Frigg + Hutwelker Co.	Dec.	134	26700	26700.	26300	—	400		[illegible]
9-12-56	Home Pk.	5 Pts.	275	57975	57255	—	—	720		[illegible]
9-12-56	Luer Pork Co., L.A., Calif	2 Pts.	113	25970	25640	25770	—	300 Reweigh		[illegible]
9-12-56	Luer Pork Co., L.A.	2 Pts.	111	25460	25210	25260	—	250 Reweigh		[illegible]
9-12-56 *	H.T. Ind. Pk.	4 Pts. + Bushnell 83	227	55850	55510	—	53745	340		[illegible]
9-13-56	Frigg + Hutwelker Co.	Mts.	145	28255	27745	27955	—	300 Reweigh		[illegible]
9-13-56	Hunter Pk	7 Pts.	315	69190	68990	—	66845	200		[illegible]
9-13-56	Trunz Pork Stores	Pal	130	26395	26095	—	—	300		[illegible]
9-13-56	Trunz	Ch.	132	27205	27055	—	—	150		[illegible]
9-13-56	Luer Pk. Co., L.A.	Qy.	118	27545	27545	27320	—	225 Reweigh		[illegible]
9-13-56	Luer Pk.	Mts.	122	27345	27245	27115	—	230 Reweigh		[illegible]
9-13-56	Crown Pk., Detroit	—	129	30945	—	—	—	—		
9-13-56	H.T. Ind. P.	10 Pts.	358	86020	85120	—	—	900		[illegible]
9-14-56	Hunter Pk	2 Pts.	237	58250	57750	—	55730	500		[illegible]
9-14-56	J. Kleinman Pk. Co.	2 Pts.	160	26380	26180	—	—	200		[illegible]
9-14-56	Frigg + Hutwelker	3 Pts.	140	26910	26910	26340	—	570 Reweigh		[illegible]
9-14-56	Merkel Inc.	Mts.	131	28955	28735	28755	—	200 Reweigh		[illegible]
9-15-56	Merkel	Cl.	125	29185	28900	—	—	285		[illegible]
9-15-56	Heil Pk	4 Pts.	496	112990	111990	—	—	1000		[illegible]

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9-15-56	Payton Pkg., El Paso, Tex.	Qy.	249	56810	56310		—	—	500		500
9-15-56	St. L. Ind. Pk.	2 Pts.	110	24985	24785		—	—	200		200
* 9-15-56	Kingan & Co., Indpls.	5 pts + [illegible]	994	222290	220290		—	—	2000		2000
9-15-56	Frigge & Hutwelker Co.	Ch	159	26570	26370		—	—	200		200
9-15-56	Swift NSY.	10 Pts.	689	175425	174385		—	168330	1040		1040
9-17-56	Home Pk.	4 Pts	263	54215	53470		—	—	745		745
9-17-56	Swift NSY.	3 Pts.	88	29500	29155		—	28420	345		345
9-17-56	St. L. Ind. Pk	Dec.	94	20845	20785		—	—	60		60
9-17-56	Hunter Pk	7 Pts.	754	164950	164345		—	157495	605		605
9-17-56	Frigge & Hutwelker	Ch	132	27140	26840		—	—	300		300
9-17-56	Kingan & Co.	7 Pts	500	111660	110360		—	—	1300		1300
9-18-56	St. L. Ind. Pk.	6 Pts.	246	61505	61505		—	59900	0		
9-18-56	Frigge & Hutwelker	Mtg.	127	25820	25615		25720	—	100 Reweigh		100
9-18-56	Hunter Pk	2 Pts.	257	57970	57785		—	56060	185		185
9-18-56	Clougherty	2 Pts.	119	24915	24915		—	—	0		
9-18-56	Clougherty	2 Pts.	228	50545	50545		49960	—	585 Reweigh		585
9-18-56	Home Pk. Co	2 Pts.	135	28605	28305			26900	300		300
* 9-18-56	Swift NSY	7 pts + [illegible]	351	85755	84955		—	82510	800		800
9-19-56	Heil Pk.	3 Pts.	383	86245	85245		—	—	1000		1000
9-19-56	St. L. Ind.	9 Pts.	451	104545	103545		—	100805	1000		1000
9-19-56	Frigge & Hutwelker	Ch	132	26700	26400		—	—	300		300
9-19-56	Hunter Pk	5 Pts	635	144270	142450		—	139525	1820		1820
9-19-56	Swift NSY.	4 Pts.	229	53735	53235		—	51570	500		500

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Date	Sold	To	Shipped From	Hogs in Head	Weight Shown on Invoice	Buy Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
20-56	Irving Park Stores		2 Points	127	27910	27910	27775	—	135 Reweigh		135
9-20-56	Tobin Pk.		Mts.	115	25850	25850	—	—	0		
9-20-56	Cudahy Pk. Co., Phoenix		Qy.	126	27285	27285	27040	—	245 Reweigh		245
9-20-56	Cudahy Pk. Co., San Diego Calif		Ru.	113	25990	25990	—		0		
9-20-56	Hunter Pk		8 Pts.	636	140750	139525	—	135995	1225		1225
9-21-56	Merkel Inc.		Mts.	126	25875	25575	26105	—	230 Reweigh	230	
9-21-56	Merkel		Qy.	126	27145	27145	27045	—	100 Reweigh		100
9-21-56	Oscar Mayer Pk, Davenport Ia		9 Points	310	86235	86135	—	83635	100		100
9-21-56	Home Pk.		9 Points	285	57800	57200		54910	600		600
9-21-56	Hunter		6 Points	377	84010	83470	—	81245	540		540
9-21-56	Irving		Pal.	122	27415	26955	27615	—	200 Reweigh	200	
9-21-56	Tobin		Ch.	250	56710	56410	56215	—	495 Reweigh		495
9-22-56	Peyton Pk., El Paso		Pa	125	27090	26680	27260	—	170 Reweigh	170	
9-22-56	Tobin Pk		Da	133	28600	28600	28410	—	190 Reweigh		190
9-_3-56	Cudahy Pk, Phoenix		2 Pts.	130	27540	27540	—	—	0		
9-22-56	Belvedere Pk		6 Pts. & 8 [illegible]	99	27670	27530	—	—	140		140
9-22-56	Kingan & Co.		3 Pts.	220	57605	51300	—	49810	305		305
9-22-56	[illegible]		Mts.	122	25355	25255	—	—	100		100
9-22-56	Merkel		Mts.	115	25515	25515	25370	—	245		245
9-24-56	Home Pk		8 Pts.	260	47395	48895	—	47140	500		500
9-24-56	Luer Pk.,	L.A. Calif	3 Pts.	118	26985	26985	26775	—	210 Reweigh		210
9-24-56	Luer	L.A. Calif	Qy.	112	26250	26075	26100	—	150 Reweigh		150
9-24-56	Kingan		5 Pts.	274	57560	56960	—	—	600		600

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Date	Sold To	Shipped from	Hogs in Head	Weight Shown on Invoice	Buy Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
9-24-56	Irving Park Stores	Pal	123	27200	27015	27000	—	200	Reweigh	200
9-24-56	Tobin	Med.	134	28400	28400	28125	—	275	Reweigh	275
9-24-56	John Morrell & Co., Ottumwa, Ia.	2 Pts	113	29725	28325	—	28450	400		400
9-24-56	Hunter Pk. Co.	6 Pts.	483	108600	108325	—	104960	275		275
9-24-56	Heil Pk.	2 Pts.	248	55510	54760			750		750
9-25-56	Irving Park Stores	2 Pts.	245	52930	52575	52180	52180	750	Reweigh	750
9-25-56	Tobin	2 Pts	113	25180	24830	24960	—	220	Reweigh	220
9-25-56	Hunter Pk.	10 Pts.	516	115190	114140	—	111075	1050		1050
9-25-56	St. L. Ind. Pk.	12 Pts.	399	109890	109050	—	105905	840		840
9-26-56	Luer Pk. Co., LA.	Da	109	24505	24405	24295	—	210	Reweigh	210
9-26-56	Luer Pk	2 Pts.	122	28695	28105	28495	—	200	Reweigh	200
9-26-56	Hunter Pk	5 Pts.	388	84450	83160	—	81670	1290		1290
9-26-56	[illegible]	4 Pts. & [illegible] [illegible]	121	27195	27195	—	—	0		
9-26-56	Hormel Pk	Mts.	137	26500	26500	—	25470	0		
* [illegible]-56	St. L. Ind.	[illegible] 15 Pts +	812	186300	183690	—	—	2610		2610
9-27-56	Figge & Hutwelker	2 Pts.	127	25965	25765	25640	—	325	Reweigh	325
9-27-56	St. L. Ind. Pk.	15 Pts.	1207	288985	285775	—	278405	3210		3210
9-28-56	Figge & Hutwelker	2 Pts.	130	26010	26010	25750	—	260	Reweigh	260
9-28-56	Luer Pk. Co., LA., Calif.	Ry.	125	28590	28490	28315	—	275	Reweigh	275
9-28-56	Kingan & Co.	8 Pts.	639	141595	140295	—	—	1300		1300
9-29-56	Tobin Pk. Co.	Ry.	118	27100	27100	26900	—	200	Reweigh	200
9-29-56	Tobin Pk	Mts.	114	26015	26015	—	—	0		
9-29-56	[illegible] Inc.	Ea. & Med	244	51010	51010	50385	—	625		625

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Date	Sold To	Shipped From	Hogs No. Head	Weight Shown on Invoice	Buy Weight		Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
9-29-56	Heil Pack	4 Pts.	584	132415	131515		—	—	900		900
9-29-56	Hunter Pk	6 Pts	500	111070	110390		—	107405	680.		680
9-29-56	# St.L. Ind.	Bu 32 4 Pts.	107	43700	42930		—	—	770		770

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
1-1-56	Luer Pk. & Q.	Mte	115	26755	26755	26575	—	230	Reweigh	230
-	Kingan	6 Pts.	510	114640	113250	—	110400	1390		1390
-	Home	5 Pts.	391	78485	77575	—	—	910		910
-	Independent	3 Pts.	260	57705	56945	—	55610	760		760
-	Swift N.S.Y.	9 Pts.	135	48155	47760	—	45850	395		395
-	Luer	Ga-Ar.	126	27990	27990	—		0		
-	Frigge	Cl Jef	139	26485	26285	—	—	200		200
-	Tobin	Md	125	27150	27000	—	—	150		150
-	Hunter	Pal Ga	134	29820	29190		28815	630		630
2	Belvedere	[illegible]	131	31235	31235		29815	0		
-	Swift N.S.Y.	4 Pts.	72	28505	28515		27460	10	10	
-	Kingan	9 Pts.	522	114285	113285	—	—	1000		1000
-	Home	4 Pts.	401	84185	83085	—	—	1100		1100
-	John Morrell	3 Pts.	237	56425	55725		54430	700		700
* 3	Swift, N.S.Y.	6 Pts + Ga 26	56	24170	23970	—	—	200		200
-	Home	5 Pts.	370	55925	55765	—	53910	160		160
-	Kingan	6 Pts	334	77875	77165	—	—	710		710
-	Frigge + Hutwalker	4 Pts.	135	26500	26335	—	26170	165		165
* 4	Swift, N.S.Y.	6 Pts. + Ga 40	96	33620	32620		32340	1000		1000
-	Frigge	3 Pts.	130	25100	25075	24950	—	150	Reweigh	150
5	Belvedere	3 Pts + Pa 71	133	28510	28525	—	—	15	15	
-	Home	3 Pts.	263	56160	55540	—	—	620		620
-	Hunter	10 Pts.	545	135250	134005	—	130805	1245		1245

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Date	Sold To	Shipped [illegible]	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Done)	Off Truck Weight (If Done)	Weight Difference	[illegible]	[illegible]
1-5-56	Frigge & K.	Ch.	131	26245	25715			[illegible]		[illegible]
✓	Hall	6 Pts.	378	85110	84070	—	—	[illegible]		1040
✓	Hunter	7 Pts.	497	112855	111595	—	109250	1260		1260
✓	Irving	Mac.	124	26815	26[illegible]45	26675	—	140	Reweigh	140
6	Swift N.Y.	6 Pts.	196	57420	58500	—	57190	640		640
✓	Kingan	10 Pts.	523	115390	114590	—	—	1000		1000
✓	Home	Act. Doc.	140	29270	28935	—	—	335		335
✓	Irving	Mac.	121	24790	24690	—	—	100		100
✓	Merkel	Ay.	141	28620	28620	28310	—	310	Reweigh	310
8	2 Klugman	Pal. Ay.	150	28700	28415	28250	—	450	Reweigh	450
✓	J. McNeill	8 Pts.	318	84450	83495	—	81750	955		955
✓	Frigge [illegible]	Ch. Jay	127	28160	27960	28160	—	0	Reweigh	
✓	[illegible]	Pal	640	54815	54035	—	54065	780		780
✓	Lee	Mac.	122	27470	27370	27265	—	205	Reweigh	205
✓	Home	6 Pts.	392	83915	83000	—	—	915		915
✓	Swift N.Y.	4 Pts.	92	26620	26620	—	25890	0		
9	Beinecke	5 Pts. – No. 60	110	29300	29280	—	—	20		20
✓	Swift N.Y.	9 Pts.	252	[illegible]	58560	—	[illegible]30	670		670
✓	Frigge Hunt	Ay. Pal	139	26245	26245	25750	—	495		495
✓	Lee	3 Pts.	122	27150	26900	26860	—	240		240
✓	John McNeill	6 Pts.	375	82440	81655	—	80540	785		785
10	J. McNeill	8 Pts.	592	138180	135790	—	134160	2390		2390
✓	[illegible]	4 Pts.	121	28200	[illegible]	—	27130	535		535
✓	Hunter	9 Pts.	401	85880	85200	—	[illegible]	680		680

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Date	Sold To	Shipped From	Car No.	[illegible]	[illegible]	Reweigh Weight	Off Track Weight ([illegible])	Weight Difference	Weight Deducted	Weight Added
1-11-56	Hunter Pk.	8 Pa.	[illegible]	[illegible]	[illegible]	—	163710	2075		2075
—	Emge	Pa. Ot.	134	28660	28520	—	27395	140		140
—	Home	[illegible]	119	25125	25105	—	26140	30		30
—	J. Morell	9 Pa.	397	107520	105860	—	104570	1660		1660
—	Figge H.	Ch. Joy	127	26485	26055	—	—	430		430
12	Tobin	Pa.	121	28275	28175	28010	—	265 Reweigh		265
—	Tobin	Mta.	121	27550	27450	—	—	100		100
—	Hunter	6 Pa.	371	82610	81885	—	—	725		725
—	Figge & H	6 Pa.	151	29120	28860	28720	—	400 Reweigh		400
—	C. F. Vissman	4 Pa.	243	55340	54665	—	—	675		675
—	D. K. Longman	Ch.	130	28100	27650	27850	—	250 Reweigh		250
—	Merkel	Da	124	28400	28280	28200	—	200 Reweigh		200
—	Merkel	Ay.	132	27590	27405	27390	—	200 Reweigh		200
—	Feeney	Pal	265	58165	57505	57665	—	500 Reweigh		500
—	Feeney	Bg - Mas.	137	27810	27550	27680	—	130 Reweigh		130
* 13	Swift N.Y.	Ar - 19	315	87210	86565	—	75800	645		645
—	Feeney	Bg Pal	121	26390	26340	26190	—	200 Reweigh		200
—	Swift, Jersey City	Gr.	117	26690	26120	[illegible]	—	0 Reweigh		
—	Sperry & Barnes	Ay.	131	[illegible]	27745	—	—	0		
—	H. L. Handy Co.	Ay.	130	27455	27455	27180	—	275		275
—	Tobin	[illegible] Col	119	26855	26855	—	—	0		
—	Tobin	Ch.	114	27750	27500	—	—	250		250
—	Merkel	[illegible] Mta.	117	26375	26275	—	—	0		

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Date	[illegible]	To	Shipped to	Hogs in [illegible]	Invoice Weight	Purchase Weight	Reweigh Weight ([illegible])	Off Truck Weight ([illegible])	Weight Difference	Weight Deducted	Weight Added
7-13-56	Hart P/C		4 Pts.	509	116465	114965		—	1500		1540
—	Crown P.C.,		3 [illegible] 24 – [illegible] 31	101	26950	26190	—	—	140	140	
15	~~Independent~~		Pal	85	23420	22785		22620	635		635
* —	Swift	NSY	[illegible] 4 Pts 20	200	54020	53470	—	57980	550		550
—	Luer		Q.	131	29650	29420	29400	—	250	Reweigh	250
—	Luer		Dec.	125	28445	27895	28195	—	250	Reweigh	250
—	Luer		Col Do	118	26950	26850	26700	—	250	Reweigh	250
—	Fugge		Ba Dy	135	26510	26340	26110	—	400	Reweigh	400
—	Tobin		Ch Joy	126	28385	28160	28085	—	300	Reweigh	300
—	Metzel		Da Col	137	29660	29415	29410	—	250	Reweigh	250
—	Torrence		Pal	123	27790	27430	27590	—	200	Reweigh	200
—	[illegible] P.K.		8 Pts.	500	104565	102945	—	—	1620		1620
16	[illegible]		9 Pts.	776	171955	169955	—	—	2000		2000
—	Swift	NSY	10 Pts.	432	113310	112245		109370	1065		1065
—	Bu[illegible]		3 Pts. PEO 65	126	27035	27035	—	25035	0		
17	Swift	NSY	4 Pts	304	70730	70215	—	68140	515		515
—	Cornette		7 Pts	769	172120	170595	—	166725	1525		1525
—	Independent		4 Pts.	212	53570	52415	—	51545	1155		1155
—	Hanne		5 Pts.	366	79140	78140	—	—	1000		1000
—	Fugge + Hi		[illegible]	148	29340	28850	29040	—	300	Reweigh	300
18	Swift	NSY	6 Pts.	573	135690	135080	—	131290	610		610
—	[illegible]		Qy.	134	26310	26335	25760	—	350	Reweigh	350
—	[illegible]		6 Pts.	614	136720	136120	—	132975	600		600

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
11-56	Hormel P/L	Bx. Br.	228	51570	51090	—	—	430		430
✓	Independent	4 Pts.	347	78640	77670		76175	970		970
19	Tovrey	Mo.	228	49390	49760	49290	—	100	Reweigh	100
✓	Fugge + Hut	3 Pts.	144	28600	28245	28350	—	250	Reweigh	250
✓	Hormel	3 Pts.	264	59635	57235	—	—	400		400
✓	Hunter	6 Pts.	615	139230	138255	—	135195	975		975
✓	Swift N.Y.	10 Pts.	464	124370	124370	—	120480	0		
20	Hunter	5 Pts.	185	41520	41320	—	40240	200		200
✓	Heil	5 Pts. + Br 40	353	81400	80325	—	—	1075		1075
✓	Hormel	4 Pts.	133	29510	28910	—	—	600		600
✓	Tovrey	—	124	27535	27535	27290	—	245	Reweigh	245
✓	J.J. Felin	Qy.	114	26505	26505	26170	—	335	Reweigh	335
✓	J.J. Felin	Ch. Jy.	112	26345	26170	26345	—	0	Reweigh	
✓	Merkel	Jy. Ch.	126	27245	27145	27060	—	185	Reweigh	185
✓	Schluderberg K.	3 Pts.	133	25895	25895	—	—	0		
✓	Belvedere	7 Pts. + Br 28	114	28235	28065	—	—	170		170
22	Hunter	8 Pts.	771	167850	167410	—	162660	440		440
✓	Kingan + Co.	Mo. Sr.	262	58320	57365		56130	955		955
✓	Hormel	3 Pts.	403	85865	84215	—	—	1150		1150
✓	Independent	Mo. Bg	125	29070	25870	27230) →		200		200
✓	Swift N.Y.	9 Pts.	162	58865	58345	—	56710	520		520
✓	Fugge - K	3 Pts.	126	27120	27120	26490	—	630	Reweigh	630
22	Swift	10 Pts.	122	29370	28790	—	28350	580		580

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Date	Sold To		Shipped From	Hogs No. Head	Invoice Weight	Purchaser Weight	Reweigh Weight (If Shown)	Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
10-23-56	Kingan		7 Pa.	[illegible]	110500	108655	—	—	1845		1845
23	Home		3 Pa.	[illegible]	58010	57250	—	—	760		760
✓	Hunter		9 Pa.	756	167250	166205	—	161915	1045		1045
24	Hunter		10 Pa.	818	182650	180580	—	176820	2070		2070
✓	Swift	NSY	9 Pa.	147	41435	41235	—	39870	200		200
✓	Kingan		5 Pa.	373	79160	78660	—	76280	500		500
25	Swift	NSY	12 Pa.	243	77945	77375	—	75600	570		570
✓	Kingan		8 Pa.	508	114490	113690	—	—	800		800
✓	Independent		Dr. Joy	114	26230	26230	—	—	0		
✓	Home		L. Out	139	30150	30150	—	—	0		
✓	Truny		Da.	134	28535	28435	28290	—	245		245
✓	Figgle		Qy Pal	136	25750	25615	25320	—	430		430
27	Belvedere		8 Pa + [illegible]	226	50000	50000			0		
—	Figgel H		4 Pa.	133	25200	51675	50810	—	865 Reweigh		865
—	Figgel H			134	26475						
—	Swift	NSY		521	135065						
—	Markel		Da-Cl	113	24435	24435	—	—	0		
—	Home Pk		Pol Jot	129	28550	28350	—	—	200		200
26	Truny		Pal	134	29625	29310	—	—	315		315
—	Home		Da.	123	27990	27990	—	—	0		
—	Heil		9 Pa.	531	115605	114605	—	—	1000		1000
—	Swift	NSY	4 Pa.	98	26675	26065	—	25920	610		610
—	Independent		5 Pa.	84	26680	26175		26005	505		505

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Date	Sold To	Shipped From	Hogs in Mark	[illegible] Weight	[illegible] Weight		[illegible] Weight (24 Hours)	[illegible] Weight (36 Hours)	Weight Difference	Weight Deducted	Weight Added
10-29-56	Swift, N.Y.	11 Pts.	615	169640	167710		—	168180	1930		1930
✓	Hunter	4 Pts.	508	119970	118660		—	117405	1310		1310
✓	Independent	2 Pts.	132	28160	27900		—	27660	260		260
✓	Home	4 Pts.	385	86260	85215		—	—	1045		1045
✓	Kingan	Pal Ro.	254	56710	56045		—	54690	665		665
✓	Figgy & H.	Og Pal	138	25745	25400		25345	—	400		400
✓	Figgy & H.	Mal.	136	27300	27045		26900	—	400		400
30	Swift, N.Y.	10 Pts.	116	39540	39540		—	38130	0		
✓	Hunter	10 Pts.	576	129750	128485		—	125555	1265		1265
✓	Kingan	5 Pts.	274	54870.	54770		—	52875	100		100
✓	Home	4 Pts.	258	57285	56535		—	—	750		750
✓	Emge	Pts.	126	28250	28095		—	27350	155		155
31	Swift N.Y.	4 Pts.	220	55250	54790		—	53220	460		460
✓	Independent	4 Pts.	90	27655	27115		—	26675	540		540
✓	Home	5 Pts.	325	83325	82325.		—	—	1000		1000
✓	Emge	Ast	130	29145	28945		—	—	200		200

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Date	Sold To	[illegible]	[illegible] Head	[illegible]	Weight	[illegible]	[illegible] Weight (14 hour [illegible])	Weight Difference	Weight Deducted	Weight Added
[illegible]-3-56	H.T. Lockport N.Y.	7 Hfs.	280	[illegible]	[illegible]		[illegible]	980		980
12-3-56	Swift N.Y.	12 Hfs.	[illegible]	[illegible]	[illegible]		[illegible]	1340		1360
12-3-56	Kingan	5 Hfs.	380	85920	85620		[illegible]	300		300
12-3-56	Irving	Ma.	234	51985	51[illegible]	51[illegible]		255 Reweigh		255
12-3-56	Irving	Ind.	134	27800	27600			200		200
12-3-56	Frigge & H.	5 Hfs.	131 130 261	26265 25540 51805	51775	—	—	30		30
12-3-56	Hunter	6 Hfs.	778	175450	173400		170505	2050		2050
12-3-56	Hone	3 Hfs.	120	28215	27915	28005	—	210 Reweigh		210
12-4-56	H.T. Ind.	8 Hfs.	413	113550	112400	—	109725	1150		1150
12-4-56	Hone	3 Hfs.	121	27850	27595	—	—	255		255
12-4-56	Oscar Mayer, Davenport Ia.	Pal	106	27425	27235	—	—	190		190
12-4-56	Irving	Pa.	266	56600	56000	56210	—	400 Reweigh		400
12-4-56	Irving	Ind.	116	27755	27455	—	—	300		300
12-[illegible]-56	Irving	Ma.	122	25965	25650	25765	—	200 Reweigh		200
12-4-56	Frigge & Hat.	Gr. Ky.	143	28950	28950	—	—	0		0
12-4-56	Frigge & Hat	Jx.	134	27495	27195	—	—	300		300
12-4-56	Oswald & Hess Pk. Co. Pittsburg		133	27360	26990	27160	—	200 Reweigh		200
12-4-56	Hunter	8 Hfs.	760	174950	171795		170050	3155		3155
12-5-56	Frigge & Hat.	Ma. Ar.	136	26885	26485	26340	—	545 Reweigh		545
12-5-56	Hail	6 Hfs.	342	77265	76465	—	—	800		200
12-5-56	Val Decker P.Co., Piqua O.	6 Hfs.	451	111715	111315	—	—	400		400
12-5-56	Krey Pk.	Pal	126	27980	27780	—	—	0		0

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Date	Sold To	From	Hogs Head	Weight on Invoice	Purchase Weight	Reweigh Weight (At Plant)	Off Truck Weight (At Plant)	Difference	Weight Added	Weight Deducted
5-56	Swift & Co. N.Y.	6 Phs.	92	33930	33690	—	32590	240		240
12-5-56	U.S. Ind.	5 Phs.	258	57760	57560	—	55985	200		200
12-5-56 *	Hormel	7 Phs. [illegible]	362	82540	81640	—	—	900		900
12-6-56	U.S. Ind.	8 Phs.	186	58255	57530	—	56405	725		725
12-6-56	Hormel	3 Phs.	369	83655	82855	—	—	800		800
12-6-56	Swift N.Y.	12 Phs.	1207	284830	280835	—	275010	3995		3995
12-7-56	Hormel	6 Phs.	516	114155	112955	—	—	1200		1200
12-7-56	J.J. Felin & Co., Philadelphia	Pal	120	27370	27170	27120	—	250 Reweigh		250
12-7-56	Truny	Pal	142	27760	27580	27460	—	300 Reweigh		300
12-7-56	Truny	Ag	124	25335	25335	—	—	0		
12-7-56	Truny	Mor.	130	26950	26820	26700	—	250 Reweigh		250
12-7-56	Hunter	8 Phs.	903	205590	202555	—	199015	3035		3035
12-7-56	Neuhoff Bros., Dallas	Mel	160	39720	39530	39385	—	335 Reweigh		335
12-7-56	Neuhoff	Ag.	111	25840	25640	25615	—	225 Reweigh		225
12- -56	Neuhoff	Da Cal	121	28560	28350	28360	—	200 Reweigh		200
12-7-56	Figge & H.	Ag Ba	148	28320	28120	28000	—	320 Reweigh		320
12-7-56	Figge & H.	3 Phs.	127	25550	25250	24950	—	300 Reweigh		300
12-8-56 *	Swift N.Y.	12 Phs. [illegible] 30	452	146990	371 118220 81 26740 452 144960	—	—	2030		2030
12-8-56	Belvedere	4 Phs.	99	28240	28240	—	—	0		
12-8-56	Tobin	4 Phs.	102	26600	26355	26600	—	0 Reweigh		
12-8-56	Merkel	Jf Cl.	137	27330	26930	27415	—	485 Reweigh	485	
12-8-56	Merkel	3 Phs.	124	25930	25730	25790	—	140		140

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (Of [illegible])	Off. Truck Weight (Of [illegible])	Weight Difference	Weight Deducted	Weight Added
7-56	J.J. Fisher	Ag Pol	124	25640	25440	25425	—	215 Reweigh		215
12-10-56	J.J. Fisher	Ok.	130	27200	26950	27440	—	240 Reweigh	240	
12-10-56	Heil	3 Pts.	237	50960	51185	—	—	755		755
12-10-56	Val Decker	[illegible] Col	133	29205	28895		28000	310		310
12-10-56	Fuggle & Co.	Og	146	28250	27945	27900	—	350 Reweigh		350
12-10-56	Newhoff	Og	124	27400	27240	27280	—	120 Reweigh		120
12-10-56	Newhoff	Mid.	117	27350	27055	27140	—	210	✓	210
12-10-56	Tommy	Pol	125	28180	27980	28080	—	100	✓	100
12-10-56	Home Pk	3 Pts	274	58015	57165	—	—	850		850
12-1[illegible]-56	Kempf NY	6 Pts	302	91310	90010	91320	88410	10 Reweigh	10	
12-10-56	Cicero Morgan, Downingtown Pa.	6 Pts	75	28725	28135	27910	—	815 Reweigh		815
12-10-56	Kingan	7 Pts.	517	111925	110425		107970	1500		1500
[illegible] *	Kempf NY	9 Pts & Pco 11P	446	118255	116605	—	114390	1650		1650
12-11-56	Home	6 Pts	412	85875	85215	—	—	660		660
12 56	Val Decker	5 Pts.	256	54095	53795	—	51600	300		300
12-[illegible]-56	L. Kleinman Pk. Co., Phila	Ga Mts.	132	28310	28210	27935	—	375 Reweigh		375
12-12-56	St. Louis Ind.	7 Pts.	179	55090	54080	—	53350	1010		1010
12-12-56	Kingan	9 Pts.	401	85100	84300	—	—	800		800
12-12-56	Val Decker	4 Pts	261	56355	55755	—	54500	400		400
12-12-56	Lincoln Pk, [illegible]	Dr	129	30290	30150	30090	—	200 Reweigh		200
12-12-56	Earl	Pol	1[illegible]9	26190	26025	26040	—	150 Reweigh		150
12-12-56	Emmart Louisville Ky	3 Pts	112	28010	28010	—	—	0		0
12-12-56	Emge Pk, Ft. Branch, Ind.	Ag Jos	132	29500	28955	28705		795 Reweigh		795

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (Of Plant)	Off Truck Weight (Of Plant)	Weight Difference	Weight Debited	Weight Added
13-56	C. F. Vissman Co., Louisville Ky.	[illegible]	129	29090	28965	—	—	125		125
12-13-56	Home Pk	7 Pts	257	58560	57860	—	—	700		700
12-13-56	H. F. Ind.	4 Pts	60	27265	26855		26600	410		410
12-13-56	Frigge & Hutcheson	Jy Cl.	135	27075	26495	—	—	580		580
12-13-56	Frigge & H Hutcheson	3 Pts.	125	25175	25075	24560	—	315 Reweigh		315
12-13-56	Luer, La.	4 Pts	118	26110	25925	25910	—	200	✓	200
12-13-56	Tracy	Pal & Ag	139	27900	27845	27900	—	0	✓	
12-14-56	Frigge & H.	Cl	134	27280	26870	—	—	410		410
12-14-56	Frigge & H.	3 Pts	148	29605	29405	29590	—	215 Reweigh		215
12-14-56	Crosswald & Hare	Co Cal	123	25790	25590	25090	—	100	✓	100
12-14-56	Tracy	Ind.	141	29550	29410	—	—	140		140
12-14-56	Tracy	Mas	130	27130	27030	—	—	100		100
12-14-56	Tracy	Pal	130	28035	27935	—	—	100		100
12-14-56	Tracy	And & Da.	118	25140	25110 460	—	—	30		30
12- -56	Luer, La.	Ag	109	27195	27065	—	—	130		130
12-14-56	Luer, La.	Med.	103	26735	26635	—	—	100		100
12-15-56	Luer, La	Co. Mts.	107	25665	25565	—	—	100		150
12-15-56	Rhodes	4 Pts	112	28490	28255	—	—	235		235
12-15-56	Swift N.Y.	10 Pts.	265	81975	165 57750 100 23575 265-81325		56210 23 [illegible] 79350	650		650
12-15-56	Markel	5 Pts	142	26435	26235	—	—	200		200
12-15-56	Tracy	Mts Ag.	122	25870	25870	25655	—	215 Reweigh		215
12-15-56	Luer La.		103	25140	25340	24680	—	460 Reweigh		460

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (Of Plant)	Off Truck Weight (Our Plant)	Weight Difference	Weight Credited	Weight Added
15-56	Fin Pk. F.A.	Jy Ch.	112	26895	26695	—	—	200		200
12-15-56	C F Vissman	Ro.	138	28585	28485	—	—	100		100
-15-56	Lange	Ar.	132	28490	28170	—	—	320		320
12-15-56	Home Pk	12 Pts.	350	80435	79795	—	—	640		640
12-15-56	St. L. Ind.	5 Pts.	70	26810	26260		25945	550		550
12-15-56	Hail	Ro Ar	252	55265	54765	—	—	500		500
12-17-56	Swift N.S.Y.	4 Pts	412	106165	105565	—	104070	600		600
12-17-56	Figge & Hutwelker	3 Pts.	141	28240	28240	27710	—	520 Reweigh		520
12-17-56	Figge & Hutwelker	Gy Pol	144	28550	28455	28150	—	400	–	400
12-17-56	Irving	By.	137	28975	28575	28975	—	0	–	
12-17-56	Irving	Pol	127	27145	26945	—	—	200		200
12-17-56	Oswald & Hess	Da	125	27035	26820	26910	—	125 Reweigh		125
12-17-56	Home Pk	5 Pts.	363	84350	82650	—	—	1700		1700
12-17-56	St. L. Ind.	6 Pts	345	85835	84865	—	83440	970		970
1- -56	Home Pk	Pol Bo	246	57955	57450	—	—	505		505
12-.8-56	H.L. Ind.	14 Pts.	545	142700	140275	—	138220	2425		2425
12-18-56	Lange Pk.	3 Pts.	249	55670	54905	—	—	765		765
12-18-56	* Val Decker	4 Pts. & Ped 229	376	84075	83875	—	—	200		200
12-19-56	Swift	6 Pts.	222	56015	55415	—	54180	600		600
12-19-56	Belvedere	5 Pts. & P&0.75	124	29265	29270		27315	5	5	
12-19-56	Home Pk	3 Pts.	269	58185	56975	—	—	1210		1210
12-19-56	St. L. Ind.	9 Pts.	626	147475	146150	—	—	1325		1325
12-19-56	Figge & Hutwelker	Gy & Pol	135	26200	26010	25900	—	300 Reweigh		300

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Date	Sold	To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
20-56	Swift		5 Pts.	319	88210	87910	—	85420	300		300
12-20-56	St. L. Ind.		Pal	65	30490	29790		29565	700		700
12-20-56	Heil		Mt. Plea.	259	59230	58455	—	—	775		775
12-20-56	Hormel		Th. Cl.	140	30105	29745		—	360		360
12-20-56	Fuggl & Hutwelker		Mts.	143	28185	27995	27765	—	420 Reweigh		420
12-21-56	Heil Pk.		4 Pts.	273	60525	59725	—	—	800		800
12-21-56	Fuggl & Hutwelker		Qy.	141	27435	27435	27135	—	300 Reweigh		300
12-21-56	Hormel Pk.		4 Pts.	267	59185	58445	—	—	740		740
12-21-56	Irving		Mas.	232	48230	48230	47830	—	400 Reweigh		400
12-21-56	Irving		Pal	126	27790	27465	27660	—	130	–	130
12-22-56	Tobin		2 Pts	230	51250	51250	51010	—	240	–	240
12-22-56	Tobin		Med.	116	26265	26265	25895	—	370	–	370
12-22-56	Hormel Pk.		5 Pts.	264	55575	54790	—	—	785		785
1· 2-56 *	Swift	N.S. Y.	6 Pts 4 Pts 26	164	57170	73· 28265 91· 28605 56870	— — —	54830	300		300
12-22-56	Swift, Jersey City		Qy	218	51790	51790	51270	—	520 Reweigh		520
12-22-56	Sperry & Barnes		Mts.	125	28040	27710	28040	—	0	–	
12-21-56	Van Wagner & Schickhaus	Newark	Pal	135	28950	28950	28880	—	70	–	70
12-22-56	Fuggl & Heit,		Qy.	139	26685	26685	26140	—	545	–	545
12-22-56	Merkel		Mts	257	55815	55615	—	55710	200		200
12-27-56	Irving		Qy.	131	27855	27630	27725	—	130 Reweigh		130
12-21-56	Irving		Bur-Cul.	137	20590	30585	—	—	5		5
12 24-56	Belvedere		3 Pts. Pco., 33, 36 Sta	130	27900	27900	—	—	0		0

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Date	Sold	To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (Of Above)	Off Truck Weight (Of Above)	Weight Difference	Weight Deducted	Weight Added
24-56	Swift	NSY	8 Pts.	625	155845	155225	—	—	1520		1520
12-24-56	Heil		7 Pts.	370	80250	79405	—	—	845		845
12-24-56	Irving		Pol	118	24675	24675	—	—	0		
12-24-56	Irving		Oy	122	27720	27720	—	—	0		
12-24-56	Merkel		Da	133	29310	29100	29210	—	100 Reweigh		100
12-24-56	C.H. Wiseman		Ar.	129	28540	28340	—	—	200		200
12-26-56	Val Decker		5 Pts.	523	118960	117960		114000	1000		1000
12-26-56	Figge Hutwelker		Oy.	154	30100	29900		28910	200		200
12-26-56	Figge Hutwelker		3 Pts	152	29315	29215	—	—	100		100
12-26-56	Heil Pk		6 Pts	516	117405	115905	—	—	1500		1500
12-26-56	Hunter Pk		6 Pts.	652	147400	145030	—	143390	2370		2370
12-26-56	Oswald-Hess		Mo.	133	28850	28700	28660	—	190 Reweigh		190
12-26-56	Swift	NSY	12 Pts.	894	237375	234395	—	229410	2980		2980
12-27-56	Emge		Pal	128	28780	28340	28680	—	100 Reweigh		100
-56	Oswald-Hess		Pal	144	27665	27665	27665	—	0 Reweigh		
12-27-56	Val Decker		7 Pts.	381	83460	82760	—	—	700		700
12-27-56	Home Pk		7 Pts.	269	55410	55410	—	—	0		
12-27-56	H. Louis Dad		6 Pts.	68	28410	27875	—	27690	535		535
12-27-56	Figge-Hutwelker		Mo-Art.	140	27405	26705	27105	—	300 Reweigh		300
12-28-56	C.F. Wiseman		Ox.	132	29540	29135	—	—	205		205
12-28-56	Merkel		Gy.	119	26600	26180	26500	—	100 Reweigh		100
12-28-56	Merkel		Mo.	124	25915	25915	25745	—	170 Reweigh		170
12-28-56	Oswald-Hess		Pal-Ag.	139	27875	27875	27800	—	75 Reweigh		75

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Date	Sold To	Shipped From	Hogs No. Head	Weight Shown on Invoice	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
-28-56	Truny Park Store	Mo.	126	27180	26915	27035	—	145 Reweigh		145
12-28-56	Truny	Ia. + Mo.	124	27025	26965	26855	—	170 ✓		170
12-29-56	Swift	12 Mo.	212	77785	76785	—	75420	1000		1000
12-29-56	Crown	Ru. 61 4 Mo.	133	29660	29660	—	—	0		
12-29-56	Tobin	Gy	115	27055	27055	26870	—	185 Reweigh		185
12-29-56	Tobin	Da	107	25470	25470	25340	—	130 ✓		130
12-29-56	Heggie & Hutwelker	Ch. + Gy	131	25710	25120	—	—	590		590
12-29-56	Sperry & Barnes	Da.	117	25560	25560	—	—	0		0
12-29-56	Sperry & Barnes	Mte	110	24750	24750	24545	—	205 Reweigh		205
12-29-56	Sperry & Barnes	2 Pts.	261	53535	53310	—	—	225		225
12-29-56	Meikel	And. + Ro.	124	26655	26655	26340	—	315 Reweigh		315
12-29-56	Truny	ct. 45 2 Pts	124	25065	25065	24890	—	175 Reweigh		175
12-29-56	Truny	Al Gy	114	25195	24680	—	—	515		515
12-29-56	Truny	Gy.	142	29800	29800	29530	—	270 Reweigh		270
1- 4-56	Heil	4 Pts.	370	81810	80810	—	—	1000		1000
12-31-56	Swift	10 Points	167	59970	59595	—	58110	575		575
12-31-56	Heggie & Hutwelker	Ba Gy.	136	26790	26450	26590	—	200 Reweigh		200
12-31-56	Truny	Mo. Gy.	128	29200	29040	29160	—	40 ✓		40
12-31-56	Luer Pk	Ba + Gy.	112	27675	27675	27400	—	275 ✓		275
12-31-56	Luer	Da	112	26390	26130	26290	—	100 ✓		100
12-31-56	Van Wagner & Schickline	Pa	117	26960	26960	26975	—	15 ✓	15	
12-31-56	Van Wagner & Schickline	Gy Ba.	129	27545	27545	27420		125 ✓		125
12-31-56	Van Wagner & Schickline	Ch.	130	28170	28020	—		150		150

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Date	Sold To	Shipped From	Hogs No. Head	Weight Claimed on Invoice	Buy Weights	Reweigh Weights (If Claimed)	Off Truck Weight (If Claimed)	Weight Difference	Weight Deducted	Weight Added
1-57	Home Pk. Co.	5 Pts.	254	54785	54285	—	—	500		500
1-1-57	Val Decker, Piqua Ohio	6 Pts.	641	143980	142630	—	—	1350		1350
1-1-57	Mickel Inc.	Ch.	133	28655	28655	—	—	0		
1-1-57	Frigge + Hutwelker Co.	Pd.+Ha.	146	27020	27020	—	—	0		
1-1-57	Russell Pk., Chicago	5 Pts.	52	27000	27000	—	—	0		
1-2-57	Swift, N.S.Y.	8 Pts.	102	40350	39515	—	39200	835		835
1-2-57	Home Pk	7 Pts.	348	81050	80050	—	—	1000		1000
-2-57	Val Decker Piqua	Ma.+Ant.	132	29105	28715	28200	—	905	Reweigh	905
1-2-57	Hunter	6 Pts.	309	74725	73425		72680	1300		1300
1-3-57	St. L. Ind. Pk.	4 Pts	63	26495	26495	—	26125	0		
1-3-57	Home Pk.	6 Pts.	358	84760	83580	—	80230	1180		1180
1-3-57	Mickel, Inc.	Mts.	127	28180	27995	28180	—	0	Reweigh	
-3-57	Mickel Inc.	Mid+Cl.	119	24740	24740	—	—	0		
1-3-57	Frigge + Hutwelker	Cl.+Gr.	137	27410	27150	—	—	260		260
1- 57	Frigge + Hutwelker	Ag+Da.	140	27370	27020	—	—	350		350
1-3-57	Irving Park Stores	Pal.	117	27200	26880	27100	—	100	Reweigh	100
1-3-57	Irving Park Stores	Mac.	129	28005	27880	27905	—	100	Reweigh	100
1-3-57	Irving Park Stores	Mts.	128	27985	27555	[illegible]	—	0		
1-3-57	Irving	Da	230	54010	53915	54010	—	0		
1-3-57	Irving	Ind.	123	27690	27690	27595	—	95		95
1-3-57	Swift N.S.Y.	5 Pts.	68	27730	27780	—	26750	50	50	
1-3-57	Belvedere Pk	4 Pts. – [illegible]	100	25345	25345	—	—	0		
1-4-57	Heil Pk	8 Pts.	509	117235	115985	—	112495	1250		1250

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Date	Sold To	Shipped From	Hogs Weighed	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
4-57	Friggi & Hutwelker	Ag.	117	28050	28050	27870	—	180	Reweigh	180
1-4-57	Friggi & Hutwelker	[illegible]	151	29425	29425	—	—	0		
1-4-57	Irving Pork Stores	Pal.	131	[illegible]	27465	—	—	390		390
1-4-57	Irving	Ag.	130	28200	[illegible]	—	—	100		100
1-4-57	Irving	Dec.	131	29050	[illegible]	—	—	255		255
1-4-57	Swift, Jersey City, N.J.	Ag.	248	55640	[illegible]	55440	—	200	Reweigh	200
1-4-57	Merkel Inc.	Mts.	126	26850	[illegible]	26710	—	140	Reweigh	140
1-4-57	Merkel	Md.	124	28350	28185	28250	—	100	Reweigh	100
1-4-57	Merkel	Cl.	116	26750	26280	—	—	470		470
1-4-57	Merkel	Dir. & Bed.	139	29605	29805	29380	—	225	Reweigh	225
1-5-57	Belvedere Pk.	[illegible]	112	27030	27035	—	—	0		
1-5-57 *	Swift, N.S.Y.	12 Pts. +	682	219420	217920	—	—	1500		1500
1-5-57	Irving	Ag. & Da.	129	26510	26810	26320	—	190		190
1-5-57	Sperry & Barnes Co., New Haven Conn.	Pal. & Da.	119	28580	28450	—	—	130		130
-57	Sperry & Barnes	Do.	104	25615	25615	25470	—	145	Reweigh	145
1-5-57	Tobin	Ch. & Day.	121	27915	27915	—	—	0		
1-5-57	Tobin	Md.	109	28130	28130	—	—	0		
1-7-57	Irving	Ag. & Mts.	129	28755	28655	—	—	100		100
1-7-57	Irving	Da. & Pal.	131	27425	27210	27495	—	0	Reweigh	
1-7-57	Merkel	Da.	129	28420	28320	28210	—	210	Reweigh	210
1-7-57	Horne	5 Pts.	244	56200	56180		56280	100		100
1-8-57	Swift NSY	Da. & Pal.	67	26755	26605	—	26150	150		150
1-8-57	Swift, NSY	12 Pts.	620	167590	165540	—	161940	2050		2050

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
8-57	St. L. Ind. Pk	6 Pts	66	27855	27375	—	25785	480		480
1-8-57	Val Decker Pk	5 Pts	325	87410	86510	—	83500	900		900
1-8-57	Merkel Inc.	Mch Da.	244	56380	56175	56020	—	360	Reweigh	360
1-8-57	Frigid & Hutchinson	4 Pts	141	28190	27990	27910	—	280	Reweigh	280
1-8-57	Frigid & Hutchinson	Ch.	135	26420	26100	—	—	320		320
1-9-57	Swift, N.S.Y.	4 Pts + P.D.-55-Bush 39	198	55700	55690	—	53870	10		10
1-9-57	Truny	Bg.	113	24760	24535	24760	—	0	Reweigh	
1-9-57	Home Pk	4 Pts	242	56245	55645	—	—	600		600
1-9-57	Krey Pk	5 Pts	241	53200	52700	—	—	500		500
1-10-57	Truny	Ch	120	26100	25900	26100	—	0		0
1-10-57	Truny	Da med.	125	27680	27680	27570	—	110	Reweigh	110
1-10-57	* Emmart Pk. Co., Louisville, Ky.	Aw.-55 2 Pts.	111	28885	28785	—	—	100		100
1-10-57	Val Decker	Mch Da.	122	27665	27465	—	—	200		200
1-10-57	Home Pk.	4 Pts.	275	57110	56560	—	—	550		550
1- -57	St. L. Ind. Pk	5 Pts.	67	27665	27335		26975	330		330
1-10-57	Belvedere Pk	2 Pts. B.S.-25 + Pea. 50	131	25440	25440	—	—	0		0
1-11-57	Van Wagner & Sisson, Hamil	Pal	224	55595	54895	56165		570	Reweigh 570	
1-11-57	Spring & Brown	Bg.	225	56010	55595	56010		0		0
1-10-57	Tobin	Gy	238	54600	54465	—	—	135		135
1-11-57	Merkel	Sa	113	25390	25140	—	—	150		150
1-11-57	Merkel	Ch.	117	26695	25565 +130			1130		1130
1-11-57	Frigid & Hutchinson	Gy.	137	27825	27125 +145			0		0
1-11-57	Truny	Pal	131	27385	27150	27455	—	100	Reweigh 150	

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Date	Sold	To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweight Weight ([illegible])	Off Trucks Weight ([illegible])	Weight Difference	Weight Deducted		Weight Added
0-57	Truing		Mo.	133	29995	30075	29840	—	155	Reweigh		155
1-12-57	Truing		Da.	337	75620	75245	75420	—	200	Reweigh		200
1-11-57	Hull Co.		5 Pts.	597	137370	135870	—	—	1500			1500
1-12-57	Tobin		Md.-Ga.	115	27355	27355	—	—	0			0
1-12-57	Tobin		Da.	117	27580	27580	—	—	0			
1-12-57	Figge & Hutwelker		Gy.-Pal	128	25490	25390	25460	—	30	Reweigh		30
1-12-57	Truing		Gy.-Pal	126	28775	28775	28720	—	55	Reweigh		55
1-12-57	Merkel		[illegible] Pts.	262	54220	54220	53980	—	240	Reweigh		240
1-12-57	Merkel		Al.-Da	117	24770	24770	24520	—	250	Reweigh		250
1-12-57	Sperry & Barnes		And.-Joy.	112	26175	26075	26225	—	50	Reweigh	50	
1-12-57	Swift N.S.Y.		8 Pts.	160	62695	62640	—	61450	55			55
1-12-57	Home		A.-Ch.	93	22760	22570	227[illegible]	—	0	Reweigh		
1-11-57	Home Pk.		3 Pts.	212	49565	49155	—	—	410			410
1-14-57	Truing		By.-Mor.	124	29750	29565	297[illegible]	—	0	Reweigh		
[illegible] 57	Truing		Pal	126	26885	26685	26970	—	85	Reweigh	85	
1-14-57	Truing		Gy.	242	53100	53100	52500	—	600	Reweigh		600
1-14-57	Figge & Hutwelker		Mtr.	140	27875	27450	27875	—	0	Reweigh		
1-14-57	Peyton Pork Co.		Mo.	128	28400	28400	27960	—	440	Reweigh		440
1-14-57 *	Swift & Co. N.S.Y.		11 Pts. + [illegible] 29	294	83285	83125	—	—	160			160
1-14-57	Merkel		Da	108	24855	24855	—	—	0			
1-14-57	Heil		4 Pts.	263	58850	58335	—	—	515			515
1-15-57	Figge & Hutwelker		Gy.-Pal	150	29680	29590	29280		0			
1-15-57	Figge & Hutwelker		Ditto	142	28565	28395	28565		0			

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Date	Sold	To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight		Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
1-[illegible]-57	Irving Pork Store		Ba	141	29065	29065		28910	—	155	Reweigh	155
1-15-57	Neuhoff Bros		3 Pk.	242	56630	56630		—	—	0		
1-15-57	Heil Pk		4 Pk.	391	88055	87135		—	88055	920		920
1-15-57	Home		3 Pk.	268	57370	56795		—	—	575		575
1-15-57	St. L. Ind. Pk.		Mto.	112	27690	27690		—	26885	0		
1-15-57	Hunter		4 Pks.	529	115090	113645			112010	1445		1445
1-15-57	Swift	N.Y.	4 Pk	830	231525	230985			224420	540		540
1-16-57	Irving		Qy-Ba	129	27580	27455		27580	—	0	Reweigh	
1-16-57	St. L. Ind.		11 Pk.	384	93640	91535		—	90920	2105		2105
1-16-57 *	Swift	N.Y.	6 Pks. - Peo. 90.	382	91125	89805		—	89610	1320		1320
1-16-57	Irving		Ch.	251	57300	56770		—	—	530		530
1-16-57	Irving		Qy	119	27045	26915		27045	—	0	Reweigh	
1-16-57	Irving		Pal	117	26735	26420		26735	—	0	Reweigh	
1-17-57	Irving		Moz. Bg	246	56140	55865		—	—	275		275
1-[illegible]-57	Irving		Mto.	127	28645	28245		28645	—	0	Reweigh	0
1-17-57	Merkel		Ba - So.	119	26165	26165		26040	—	125	Reweigh	125
1-17-57	Krey Pk Co.		In. - Ba	273	57640	56970		—	—	670		670
1-17-57	Home Pk		3 Pks.	129	27315	27215			26460	100		100
1-17-57	St. L. Ind. Pk.		3 Pks.	240	57465	56620		57500	55525	35	Reweigh 35	
1-17-57	Swift	N.Y.	5 Pks.	425	96000	95025		96000	93210	0	Reweigh	
1-18-57	Merkel		Ba - Qy.	135	28360	28270		[illegible]	—	0	Reweigh	
1-18-57	Merkel		Mto.	131	28215	28080		28215	—	0	Reweigh	
1-19-57	Irving		Pal - Bg	126	27530	27215		[illegible]	—	0	Reweigh	

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight ([illegible])	Off Truck Weight ([illegible])	Weight Difference	Weight Deducted	Weight Added
[illegible]-57	[illegible]	Pal	116	[illegible]	26410	[illegible]	—	0	Reweigh	
1-18-57	Frigg & Hutchinson	Cl-Da	104	[illegible]	[illegible]	25050	—	0	-	
1-19-57	Neuhoff Bros Dallas	Da	119	27250	27250	27250	—	0	-	
1-18-57	Neuhoff Dallas	Mad-Col	133	30585	30585	30300	—	285	-	285
[illegible] should be 1-19-57. 11-19-57	Neuhoff Dallas	Ch Jy	114	26175	26015	—	—	160		160
1-19-57	Neuhoff Dallas	Bg	107	26260	25635	26260	—	0	Reweigh	
1-19-57	Merkel	Mtr-Lu	126	28045	28045	27655	—	390	-	390
1-19-57	Merkel	Ra Gy	113	24190	24055	23955	—	235	-	235
1-19-57	Frigg & Hut	3 Pts.	138	27520	27520	27235	—	285	-	285
1-19-57	Tobin	Da-Lud.	117	28280	28185	28280	—	0	-	
1-19-57	Tobin	Ch Jy	120	26470	26280	26470	—	0	-	
1-19-57	Crown Pk.	Pro.36 6 Pts & Gre 25	140	28570	28565	—	—	5		5
1-18-57	Swift N.S.Y.	15 Pts.	749	200570	113440 86100 } 199540	—	110990 83760 } 194730	1030		1030
1-21-57	Merkel	Pal-Gy.	121	27175	27055	—	—	120		120
1-[illegible]-57	Merkel	Mtr.+Ba.	133	29105	28830	29105	—	0	Reweigh	
1-21-57	Frigg & Hutchinson	Jy-Ch.	129	26110	25825	—	—	285		285
1-21-57	Tobin	Da+Col	135	29230	29415	29630	—	100	Reweigh	100
1-21-57 *	Swift, N.S.Y.	[illegible]	655	170875	170690	—	165900	185		185
1-22-57	Swift N.S.Y.	4 Pts	328	80285	79355	—	77950	930		920
1-22-57	H. L. Ind	7 Pts.	236	51005	51005	—	49545	0		
1-22-57	Russell	3 Pts.	46	21875	21875	—	—	0		
1-22-57	Frigg & Hutchinson	Gy.	149	29945	29945	29640	—	305		
1-22-57	Neuhoff	Pal	106	26935	26610	26935	—	0		

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight		Reweigh Weight (1) [illegible]	Off Truck Weight (2) [illegible]	Weight Difference	Weight Deducted	Weight Added	
1-[illegible]-57	Neuhoff Bros., Dallas	Ag.	114	27530	27240		27530	—	0 Reweigh			
1-22-57	Neuhoff Bros.	Ch.	123	27470	27205		27470	—	0	-		
1-22-57	Krey Pk.	Ag.-Jy.-Ti.	252	55135	54190		55135	—	0	-		
1-23-57	Emmart Pk.	Ag.	119	28410	28285		28410	—	0	✓		
1-23-57	Home Pk.	5 Pts.	248	52635	52145		—		490		490	
1-23-57	H. L. Ind.	4 Pts.	242	59700	58750		—	58845	950		950	
1-23-57	Krey	Rv.	128	28910	28775		28910	—	0 Reweigh			
1-23-57	Merkel	Ag.-Bs.	116	26985	26985		26820	—	165	-	165	
1-23-57	Merkel	Br.-Mts.	121	26780	26675		26780	—	0	-		
1-23-57	Friggs & Hutenecker	Pal	142	28095	27775		28095	—	0	-		
1-23-57	Friggs & Hutenecker	Cl. & Jos	130	25150	24955		25150	—	0	-		
1-[illegible]-57	Home Pk.	Rv.	136	30265	30100	+165 Rv.	—	—	165		165	
1-24-57	H. L. Ind.	8 Pts.	332	85705	84195		—	—	1510		1510	-70
1-24-57	Tobin	Ag. & Br.	116	26090	25965		26090	—	0 Reweigh			
1-[illegible]-57	Swift NSYC	Bg. & Mor.	128	28760	28660		—	27890	100		100	
1-24-57	Irving	3 Pts.	135	27880	27580		28160	—	220 Reweigh 220			
1-24-57	Irving	Mat. & Da.	116	25190	25140		25090	—	100	-	100	
1-24-57	Friggs & Hutenecker	Dec. & And.	143	28835	28835		28690	—	145	-	145	
1-24-57	Merkel	Cl. Jos	129	28060	130 Al 27880	+180 Al -110 Jos	—	—	180		180	
1-24-57	Merkel	Go. Mts.	127	26270	26135	+135	—	—	135		135	
1-25-57	Irving	Da	121	25790	25825		25790	—	0 Reweigh			
1-25-57	Irving	Dec. & And.	127	27845	27725		27845	—	0 Reweigh			
1-26-57	Belvedere	7 Pts. — Pto. 29 Cu. 90	120	27335	27325		—	—	10		10	

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Date	Sold To	Shipped From	Hogs in Herd	Gross Weight	Purchase Weight		Reweigh Weight (If Shown)	Off-Truck Weight (If Shown)	Weight Difference		Weight Deducted	Weight Added
25	Swift, NSY	12 PRS	168	55465	55260		55465	—	0	Reweigh		
26	Irving	2 PRS	129	27490	27490	110	27280	—	210	–		210
26	Mabel	4 PRS	252	52450	52450		51840	—	610	–		610
26	Mabel	4 PRS	243	50665	50665	340	—	—	0			
26	Mabel	[illegible] Da	124	29585	29585	-120	29250	—	335	Reweigh		335
26	Cudahy Phoenix	3 PRS	119	27055	27055	[illegible]	—	—	0			
26	J. J. Kelen	3 PRS	257	54120	54120		53650	—	470	Reweigh		470
28	Irving	2 PRS	125	27910	27800		—	—	110			110
28	Kragel	Ro.	134	28425	28425		28270	—	155	Reweigh		155
28	Mabel	Ch.	119	27165	27025	+90	—		90			90
28	Dord	Ro. Sh.	107	26870	26470		—	26245	400			400
28	Home	Dac.	99	23945	23750		—	22860	195			195
28	J. L. Morrell,	11 PRS	890	207760	205580	-165 [illegible] +245 [illegible]		202100	2180			2180
30	Swift NSY	3 PRS	219	57705	57355		57720	56040	15	Reweigh	15	
1	Kragel	Ch	135	27890	27680		27890	—	0	–		
29	Hunter	9 PRS	663	144390	142160	300 [illegible]	144190	140270	200	–		200
29	Sft NSY	6 PRS	367	89400	88290		89400	86800	0	–		
29	Dord	3 PRS & Peo 227	457	111665	110885	[illegible]	111665	—	0	–		
29	J. Morrell	8 PRS	694	167650	165755		167650	163240	0	–		
30	Sft NSY	2 PRS	117	27675	27430		—	26920	245			245
30	Kragel,	Ag	127	25100	25100		24970	—	130	Reweigh		130
30	H. T. Independent	15 PRS	536	125510	123250		—	121765	2260			2260
30	Belanden	3 PRS, Peo 20	120	29120	29115		—	—	5			5
30	Irving	Ch	135	29095	28695		29305	—	0	[illegible]		

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Date	Sold To	Shipped From	Hogs No. Head	Invoice Weight	Purchase Weight	Reweigh Weight (If Shown)	Off Truck Weight (If Shown)	Weight Difference	Weight Deducted	Weight Added
31	Tierney	Dal	127	26115	25890	26[illegible]	—	0	Reweigh	
31	* U.S. Independent	Burl-3 4 PTS	256	57950	57000		56525	950		950
31	Faggio	Ints	140	27865	27520	27915	—	0	Reweigh	
31	Tobin	Burl-45 Mud	105	25635	25635	25265	—	370	-	370
31	Tobin	4 PTS	118	26365	26365	26090	—	275	-	275

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Comp. Ex. 2

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Date	Sold To	Where Purchased	Total Hogs In Shipment	Invoice Weights	Purchase Weights	Weight Added
12/1/55	Swift & Co.	5 points and Springfield (167)	488	146005	144245	1760
12/10/55	Swift & Co.	14 points and Bushnell (99)	835	216390	214080	2310
12/12/55	Swift & Co.	6 points and Springfield (23)	183	57305	55860	1445
12/14/55	Val Decker	5 points and Bushnell (128)	404	90340	89340	1000
12/17/55	Swift & Co.	Several points and Bushnell (11) Springfield (24)	271	105615	103705	1910
12/19/55	Home Pkg. Co.	5 points and Springfield (139) Bushnell (131)	595	147340	145625	1715
12/21/55	Kingan	3 points and Bushnell (66)	236	60300	59105	1195
12/26/55	Swift & Co.	11 points and Bushnell (36)	403	113800	112205	1595
12/27/55	Home Pkg. Co.	3 points and bushnell (118)	256	57490	56990	500
12/28/55	Swift & Co.	10 points and Springfield (14)	425	116240	114900	1340
1/10/56	Home Pkg. Co.	9 points and Bushnell (35)	663	144710	142755	1955
1/21/56	Swift & Co.	Several points and Springfield (39)	581	169490	167490	2000
1/27 & 28/56	Swift & Co.	Several points and Springfield (32)	661	215525	212965	2560
2/3/56	St. Louis Independent	6 points and Bushnell (19)	135	55300	53750	1550
2/11/56	St. Louis Independent	9 points and Springfield (30)	170	55430	54250	1180
2/13/56	Home Pkg. Co.	6 points and Springfield (54)	688	147740	144310	3430
2/16/56	Home Pkg. Co.	9 points and Springfield (48) Bushnell (68)	643	140195	137605	2590
3/7/56	Hunter Pkg. Co.	8 points and Bushnell (134)	639	137950	136135	1815
3/12/56	Home Pkg. Co.	9 points and Peoria (38)	569	110360	109460	1900
3/16/56	John Morrell	6 points and Springfield (38) Bushnell (34)	326	105085	103370	1715
3/20/56	John Morrell	7 points and Springfield (216)	600	145070	143700	1270
3/20/56	Home Pkg. Co.	7 points and Springfield (95)	440	83515	82215	1300
3/27/56	Swift & Co.	7 points and Springfield (56)	351	81870	80870	1000
3/29/56	St. Louis Independent	Several points and Springfield (18)	551	143510	141440	2070
4/9/56	Home Pkg. Co.	10 points and Springfield (48) Bushnell (72)	510	106085	104585	1500
4/16/56	Swift & Co.	7 points and Springfield (41)	343	82735	81555	1180
4/17/56	Home Pkg. Co.	7 points and Springfield (42)	576	114425	112625	1800
4/28/56	Home Pkg. Co.	10 points and Bushnell (34) Springfield (71) Peoria (26)	396	75905	74355	1550
5/1/56	Home Pkg. Co.	5 points and Springfield (57)	285	54560	53330	1230
5/9/56	Home Pkg. Co.	7 points and Springfield (14)	530	108815	107315	1500
5/11/56	Swift & Co.	11 points and Bushnell (36)	194	80365	79365	1000
5/22/56	Swift & Co.	6 points and Peoria (58) Springfield (170)	400	145460	144260	1200
6/4/56	John Morrell Pkg. Co.	12 points and Springfield (39) Bushnell (44)	332	135365	134020	1345
6/12/56	Kingan Pkg. Co.	13 points and Springfield (68)	734	198325	196825	1500
6/22/56	Oscar Mayer	5 points and Bushnell (14)	165	55490	55030	460
7/21/56	Kingan	11 points and Bushnell (29)	565	136985	135985	1000
8/13/56	Hunter Pkg. Co.	8 points and Springfield (281)	662	139750	138750	1000
8/22/56	Hunter Pkg. Co.	9 points and Peoria (109)	648	143955	142890	1065
9/6/56	Hunter Pkg. Co.	5 points and Springfield (177)	869	196670	194100	2570
9/7/56	Neil Pkg. Co.	7 points and Peoria (119)	744	169700	168200	1500
9/15/56	Kingan & Co.	5 points and Bushnell (55)	994	222290	220290	2000
10/4/56	Swift & Co.	6 points and Bushnell (40)	96	33620	32620	1000
10/20/56	Neil Pkg. Co.	5 points and Bushnell (40)	353	81400	80325	1075
1/5/57	Swift & Co.	13 points and Peoria (40) Bushnell (55)	668	219420	217920	1500
1/31/57	St. Louis Independent	4 points and Bushnell (3)	256	57950	57000	950

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JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

423

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),
Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,
Respondents.

Vol. IV of 4 vols.

Pages 703 thru 885

United States Court of Appeals
For the
District of Columbia Circuit
FILED APR 27 1961
Joseph W. Stewart
CLERK

Washington, D. C.
ROBERT I. THIEL
Printer
EX 3-0625

UNITED STATES COURT OF APPEALS
For The District of Columbia Circuit

No. 16,041

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),

Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,

Respondents.

JOINT APPENDIX

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Redirect	768	482
Recross	787	491
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Edgar McNay		
Direct	900	544
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Complainant's Exhibit No. 1 591
Complainant's Exhibit No. 2 702

VOLUME IV

Complainant's Exhibits:

No. 3 703
No. 4 707
No. 5 710
No. 6 713
No. 7 716
No. 8 717
No. 9 718
No. 10 719
No. 11 720
No. 12 721
No. 13 722
No. 14 723
No. 15 724
No. 16 725
No. 17 726
No. 18 727
No. 19 728
No. 20 729
No. 42 731
No. 43 733
No. 44 734
No. 45 735
No. 46 736
No. 47 737
No. 48 738
No. 49 739
No. 50 740
No. 51 741
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Complainant's Exhibits:

No. 55 745
No. 56 746
No. 57 747
No. 58 748
No. 59 749
No. 60 750
No. 61 751
No. 62 752
No. 63 753
No. 64 754
No. 65 755
No. 66 756
No. 67 757
No. 68 758
No. 69 759
No. 70 760
No. 71 761
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No. 74 764
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No. 80 767

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No. 1 768
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No. 3 774

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No. 4 775
No. 5 785
No. 6 792
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No. 8 803
No. 9 804
No. 10 811
No. 11 815
No. 12 840
No. 13 881
No. 14 882
No. 15 883
No. 16 884
No. 18 885

Comp. Ex. 3. Co Ex 3
[illegible]
Page 1

Capid [illegible]

11/17/56

	[illegible]	5	1700	[illegible]	[illegible]
		15	[illegible]	4312	
		55	2265	25026	
		15[illegible]	[illegible]	7987	
		13	555	5688	
		[illegible]	1395	18490	
		1[illegible]	125	[illegible]	
		1 [illegible]	400	4150	
		1 PK.	220	6992	[illegible]
		280	560	6166	
			600	[illegible]	
5	Md. [illegible]	65	13890	198388	O.M.
		1	460	3640	
		1	320	4060	
		15	210	3797	
		55	1860	23068	S.W.
		15	475	5106	
		65	3145	33060	
		35	6680	94448	Home
		33	5625	75820	
		5	605	5838	To [illegible]
		27	2345	12660	
		1 stg	365	2555	
		100	475	2850	

U. S. DEPARTMENT OF AGRICULTURE
Docket No. [illegible]
Exhibit No. [illegible]
Hearing [illegible]
Offered by [illegible]
Date [illegible]
Reporter

Rapid Freeze Distribution Book

4/17/56

	Griggsville	15	3465	48306	HO.
		3	920	11842	SW
		1 S	285	3633	
		2 S	730	8377	
		6 S	2590	28921	
		3 S	1445	15293	
		4 S	2065	21166	
		3	515	6594	To Jax
		2	245	2395	
		1 RO	225	1687	
2-	Jacksonville	97	20955	295295	HOME
		3 S	1095	12771	SW
		2 S	845	9401	
		2 S	995	10356	
		1 S	535	5483	
		6	1100	14850	
		16	3060		HOME
		17	2990		
		15	2235		
	Peoria	21	5305		SW
		28	7850		
		32	10360		
		2	415		
	Bushnell	12	1955	25957	SW

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Copied from Settlement Book

4/17/56	Swift			
	Golden	27	12280	135902
	Mt. Sterling	14	6110	68111
	Griggsville	19	8035	89232
295 10	Jacksonville	8	3450	38011
Adams		68	29875	331256
	Peoria	83	23930	327980
	Bushnell	12	1955	25903
	C & N	95	25885	353883
		163	55760	685139 352.65

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(Copy of Invoice.)

Midwest Order Buyers
Chapin, Ill.

Page 4

Bought For:	Swift + Company National Stock Yards, Ill.			April 17, 1956	
Dale Barnes	68 Hd	12	1955	1350	26392
Curtis + Haines	95 Hd.	2	415	1425	5913
		21	5365	1400	75110
		28	7950	1375	109312
		36	11700	1350	157950
		12 s	4140	1275	52785
		6 s	2295	1250	28687
		13 s	5740	1200	68880
		25 s	12385	1175	145523
		8 s	4335	1150	49852
		163	56280		$7204 04
				-Service	30 00
					$7234 04

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Comp. Ex. 4 Co 64 T
JWB
Page 1

Partial copy of Distribution Book 12-1-55 Page 4

Spg	48	12470	123904	Sw
	36 L	11840	109991	
	17 L	6615	98058	
	26 L	11450	97559	
	20 L	9525	98844	
	9 L	4735	46247	
	11 L	6175	50654	
Mac	74	20795	212592	Sw
	12	4800	46800	
	19	3655	38377	
	2	320	3200	
	2	300	3300	
	3	930	8370	
Gj	54	14095	140154	Sw
	51	14345	133024	
Ch	21	5800	58000	Sw
Ru	54	15705	140445	Sw
Asi	5	1350	12730	Sw
	4	1210	10430	

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 4 Docket No. 2261
Hearing [illegible]
Offered by [illegible]
Date 4/1/59
Reporter [illegible]

707

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Page 2

Partial Copy of Distribution Book 12-1-55 Page 4

-92-31340 Dest	-75-29330	SP	167	62560	543603	
Rube	132-38940	Mac	132	29180	312639	
McN	27900	QY	105	28440	273178	
		Ch	21	5800	58000	
		Rus	54	15705	140445	
		Ast	9	2560	23160	
WHR	23440		84	24065	221603	
			488	144245	1357027	23630

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Copy of Invoice

Bought for Swift & Company
National Stockyards, Ill

Dec 1, 1955

		Hogs	Weight	Price	Amount
Truckers					
Oberthik. Serv.	75 hd	3	480	10.00	48.00
H.O. Arnett	92 hd	126	28430	10.75	3056.22
Bebe Bros.	132 hd	102	27665	10.00	2766.50
McMay Trk Serv.	105 hd	138	39440	9.50	3746.80
W.H. Peckham	84 hd	53	18505	8.50	1572.92
		55	25910	8.25	2137.55
		11	6175	7.75	478.56
		488	146005		$ 13746.57
				Serv	75.00
					$ 13,821.57

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Comp. Ex. 5 Co Ex 3

March 7, 1956 Partial copy of Distribution book Page 87

		Hunter		474.58
	Go	109	22615	265753
27925	Ca	28	5975	67993
Gaines		137	28590	333746
	And	37	8080	95248
	Bo	61	13680	158510
26665	Ch	21	1245	60738
Allen		119	27005	314496
	Dy	53	11865	141689
25875	Ba	64	14310	165486
M Co		117	26175	3071.75
25850				
C+H	Bush	134	26570	318840
HOD	Dc	132	27795	326535
27350				
133665		639	136135	1600792

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 5 Docket No. [illegible]

Hearing [illegible]

Offered by [illegible]

Date [illegible]

Reporter [illegible]

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Partial copy of distribution book [illegible]

	Ho			
	97.	20375	2404.85	- HTR
	11.	2035	22860	} HTR
	1 bu	215	2408	
12	Ca.			
	14	3190	36685	} HTR
	5	1080	12420	
	9	1705	18888	HTR.
7-	Med.			
	26	5580	661.29	} HTR
	11	2500	291.25	
10-	B.a			
	40	8640	121790	- HTR
	21	5040	567.20	
11.	Ch.			
	21	5245	[illegible]	HTR.
9.	Q.j.			
	53	11865	141689	HTR
	Ba			
	29	4700	554.58	
	36	8225	95410	HTR
	5	1365	14618	
	Dec.			
	132	27195	3265.35	HTR

From Bushnell till to Midwest B.B. Chopin. (This [illegible] not in distribution book)

x	69 But	13550	12¢	1626.00
x	65 But	13020	12¢	1562.40
	134	26570		3188.40

([illegible] 1st [illegible] according to [illegible];

Page 3

Copy of Invoice to Hunter

"Bought for Hunter Pkg Co
E. St. Louis, Ill. Mar. 7, 1956

Trucks Prepaid

Hogs	Weight	Price	Amount
545	115575	12.35	14273.51
68	15765	12.10	1907.56
26	6610	11.85	783.28
639	137950		$16,964.35

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Comp. Ex. 6, [illegible]
Page 1

Partial Copy of [illegible]

Sfg.	6	890	11052	Home
	7	1110	14550	
	14	2340	31352	
	30	5235	72711	
Ast.	36	6705	95805	Home
Mtn	44	9790	144292	Home
	9	1630	23227	
Bg.	1	145	1740	Home
	17	2725	35790	
	24	4460	61325	
Mac	11	2060	28570	Home
	25	4310	57369	
Pal	30	6050	88717	
	27	5205	74037	
	4	675	8817	

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 6 Docket No. [illegible]
Hearing [illegible]
Offered by [illegible]
Date [illegible]
Reporter [illegible]

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Page 2

Partial Copy of Distribution Book - May 1956

			Home	
	SP	57	9575	129665
	Ast.	36	6705	95805
.350	Mts	53	11420	167519
	India	146	27700	3929.89
	Bg.	42	7330	98855
	Mor	36	6370	85939
11980	Pal	161	11930	171571
	S. Euler	139	25630	356365
		285	53330	7493.54
				21092

154.61

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Page 3

Copy of Invoice

Bought for Home Packing Company
Terre Haute, Indiana

May 1, 1956

	Hogs	Weight	Price	Amount
trucks Prepaid	7	1035	13.15	136.10
	42	6940	13.90	[illegible]
	55	9655	14.15	1366.18
	39	7245	14.40	1043.[illegible]
	142	29085	14.65	$ [illegible]
	285	54[illegible]		[illegible]
			[illegible]	36.00
			Check.	3.77
				$ 78[illegible]

Mail Check to H. L. [illegible] Co.
National Stockyards, Ill.

ORIGINAL

MID-WEST ORDER BUYERS

TELEPHONE No. 8 **YARDS OPEN 7 to 3** CoEx 7

Comp Ex. 7, CoEx 7

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

Bought for Heil Packing Company
2216 S. LaSalle st.,
St. Louis, Missouri

Sept. 7, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Trucks prepaid			744 ✓	169700		16.00 Serv.	$27,152.00 90.00 $27,242.00	

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. [illegible] Docket No. [illegible]

Hearing [illegible]

Offered by [illegible]

Date [illegible]

Reporter [illegible]

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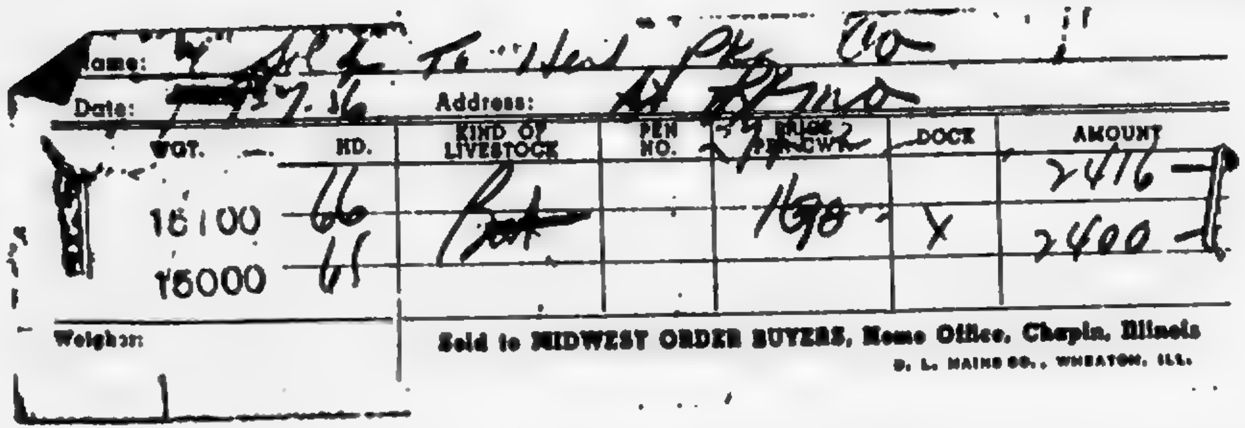
C3648
9-1778

A.



Name: Ark To Neil Pkg Co

Date: 9-7-56 Address: St Jo Mo

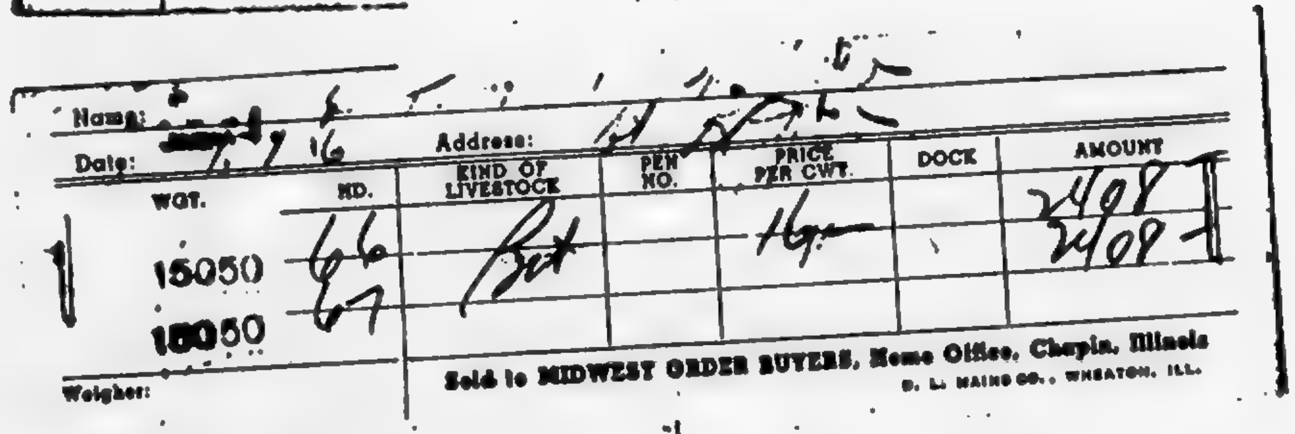
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
16100	66	[illegible]		16.90	X	2416 —
16000	65					2400 —

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

B.



Name:

Date: 9-7-56 Address: St Jo Mo

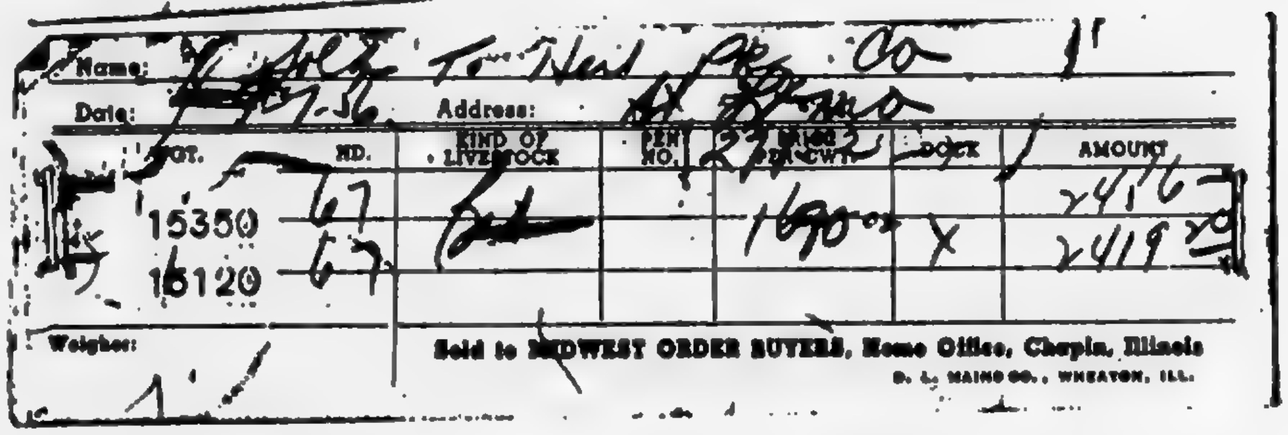
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15050	66	[illegible]		16 —		2408
15050	67					2408 —

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

C.



Name: Ark To Neil Pkg Co

Date: 9-7-56 Address: St Jo Mo

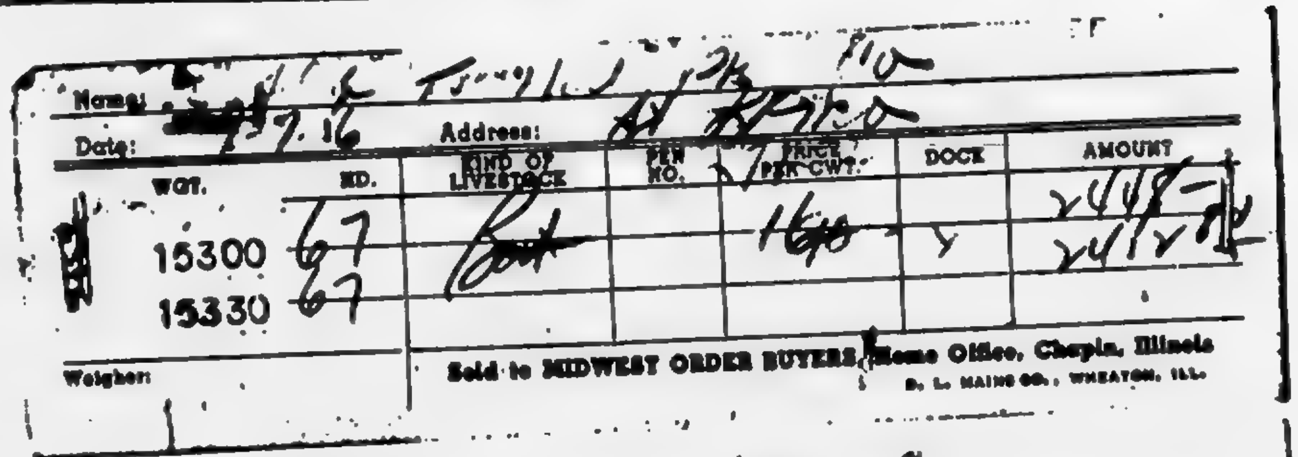
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15350	67	[illegible]		16.90	X	2416
15120	67					2419.20

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

D.



Name: Ark To Neil Pkg Co

Date: 9-7-56 Address: St Jo Mo

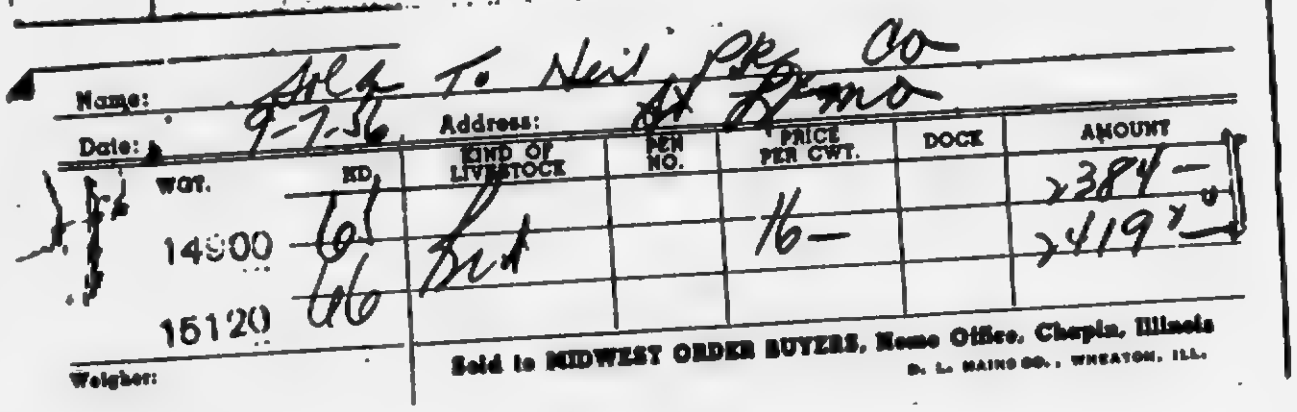
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15300	67	[illegible]		16.10	X	2448 —
15330	67					2412.80

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

E.



Name: Ark To Neil Pkg Co

Date: 9-7-56 Address: St Jo Mo

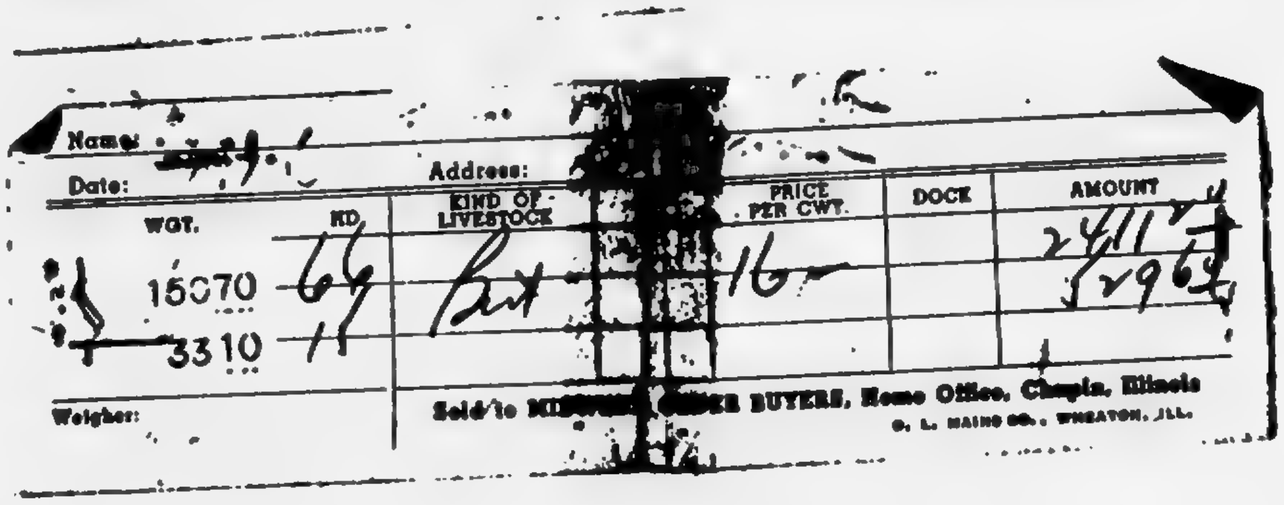
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14900	65	[illegible]		16 —		2384 —
15120	66					2419.20

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

F



Name:

Date: Address:

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15070	64	[illegible]		16 —		2411.20
3310	11					529.60

Weigher:

Sold to [illegible] ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 YARDS OPEN 7 to 3

C's Ex 9

Comp. Ex. 9

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

Bought for Hunter Packing Company

East St. Louis, Illinois

March 7, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Trucks prepaid			545	115575		12.35	14,273.51	
			68	15765		12.10	1,907.56	
			26	6610		11.85	783.28	
			639	137950			$16,964.35	

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 9 Docket No. 2201

Hearing [illegible]

Offered by Complainant

Date 4/15/59

Reporter

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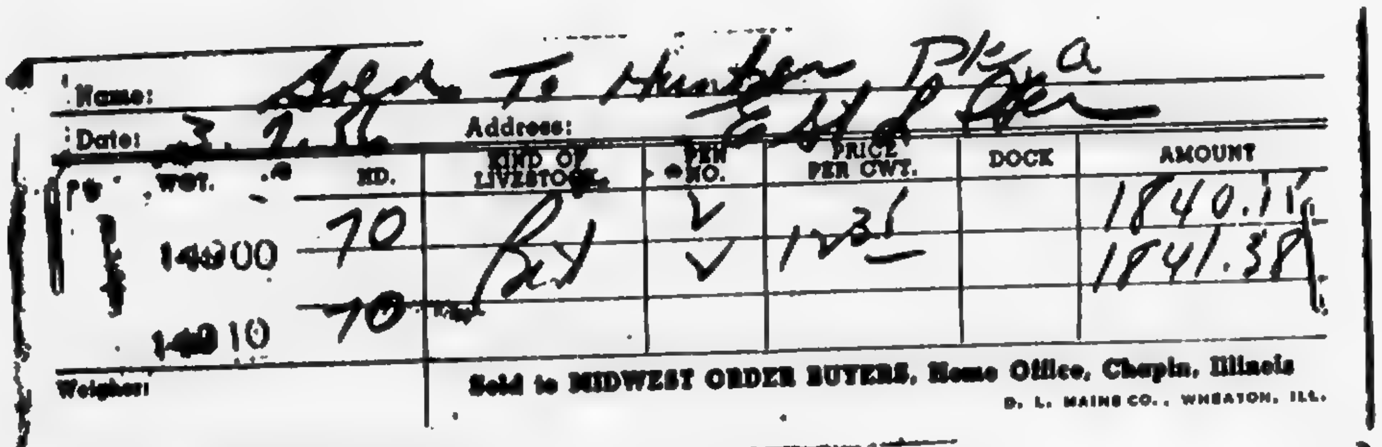
Comp. Ex. 10

A.



Name: Sold To Hunter Pkg Co

Date: 3-7-56 Address: E St L Ill

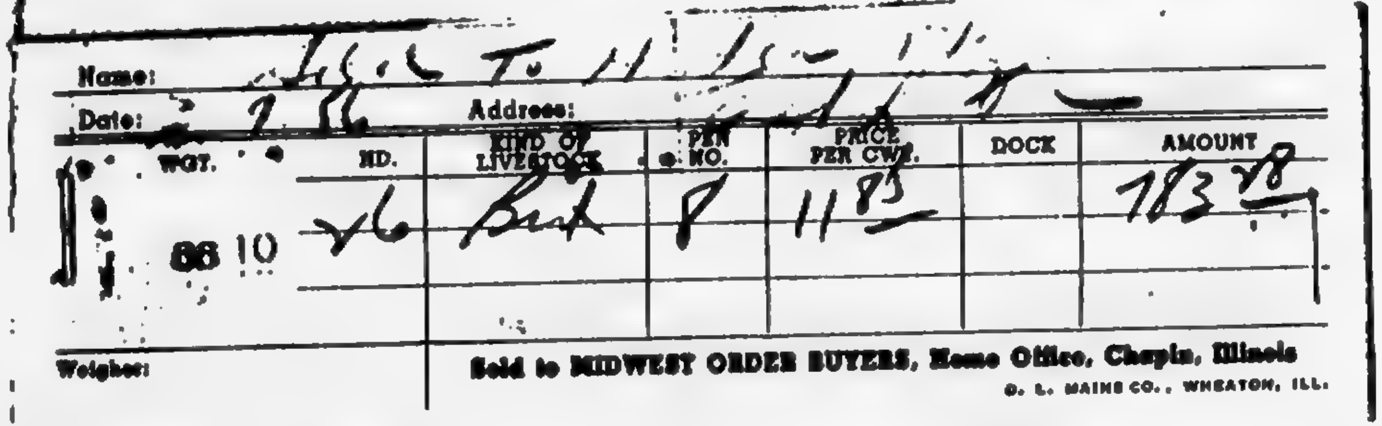
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14900	70	But	2	12 35		1840.11
14910	70		✓			1841.38

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

B.



Name: Sold To Hunter Pkg Co

Date: 3-7-56 Address: E St L Ill

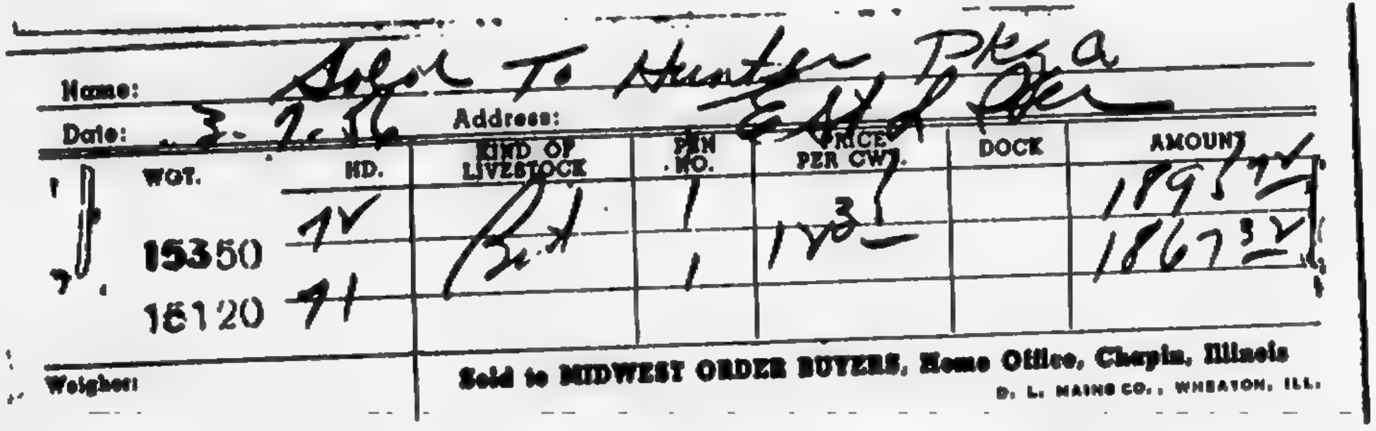
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
6610	26	But	8	11 85		783 28

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

C.



Name: Sold To Hunter Pkg Co

Date: 3-7-56 Address: E St L Ill

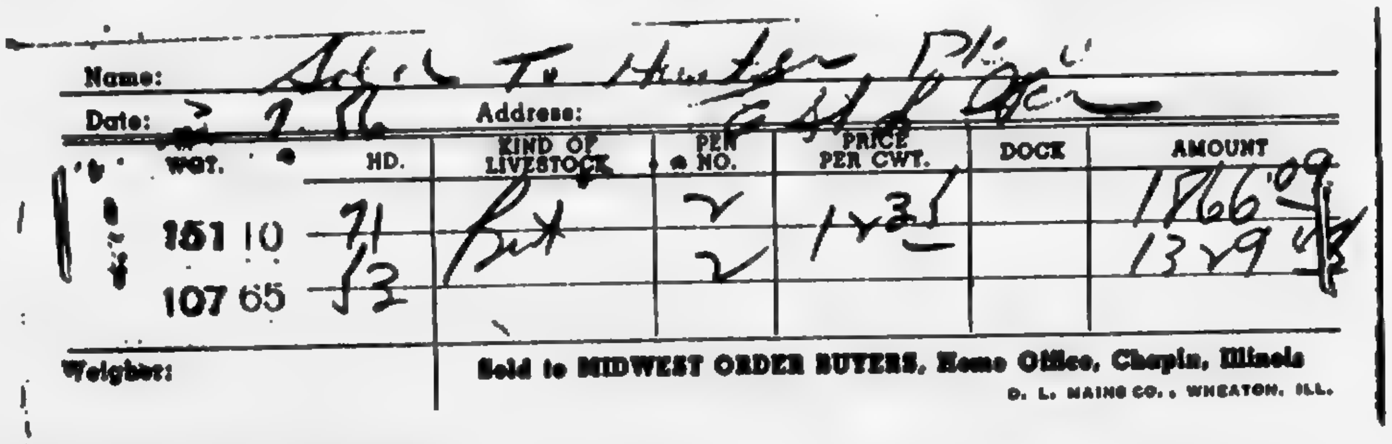
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15350	72	But	1	12 35		1895 74
15120	71		1			1867 32

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

D.



Name: Sold To Hunter Pkg Co

Date: 3-7-56 Address: E St L Ill

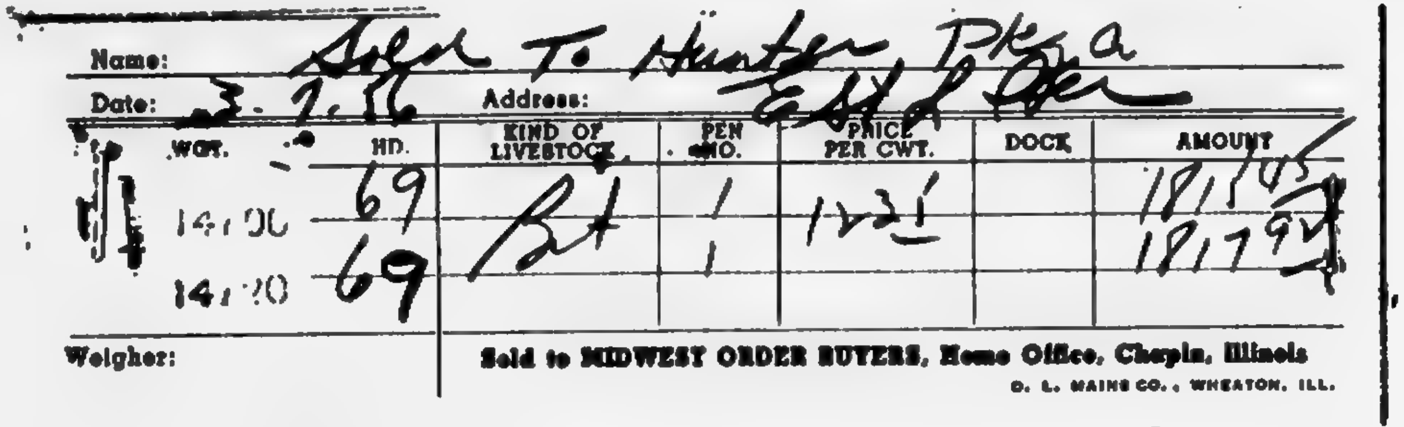
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15110	71	But	2	12 35		1866 09
10765	53		2			1329 48

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

E.



Name: Sold To Hunter Pkg Co

Date: 3-7-56 Address: E St L Ill

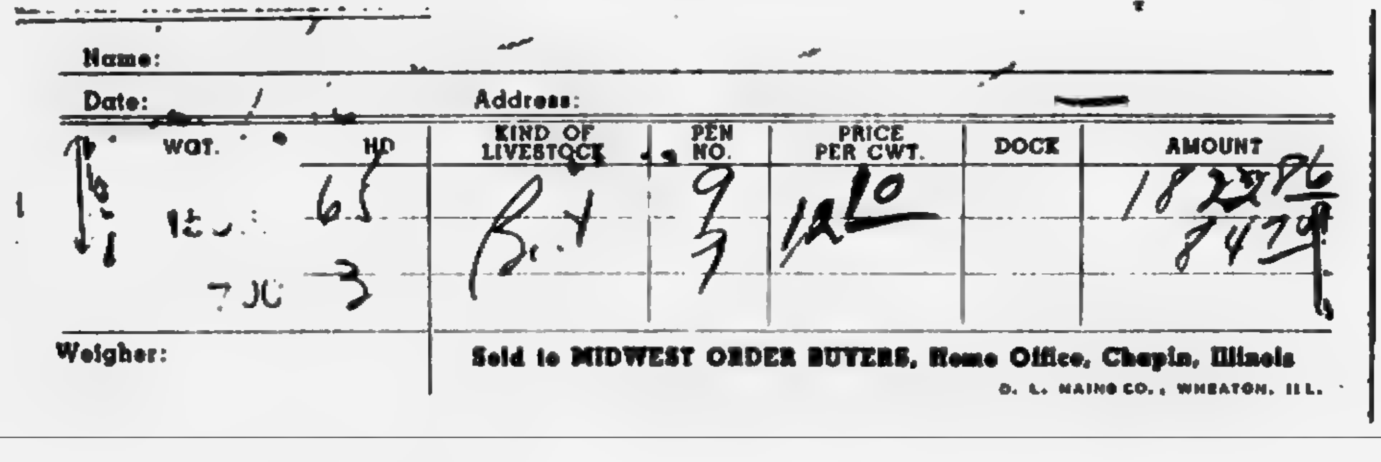
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14700	69	But	1	12 35		1815 45
14720	69		1			1817 92

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

F.



Name:

Date: Address:

WGT.	HD	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
[illegible]	65	But	9	12 10		1822 96
700	3		7			84 70

Weigher:

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D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 YARDS OPEN 7 to 3

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

C's Ex 11

Comp. Ex 11

Bought for Hunter Packing Company
East St. Louis, Illinois

August 13, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Trucks prepaid			28	5060		16.25	822.25	
			59	11260		16.50	1,857.90	
			575	123430		16.75	20,674.52	
			662	139750			$23,354.67	

U. S. [illegible]

Exhibit No. 11 Docket No. [illegible]

Hearing [illegible]

Offered by [illegible]

Date [illegible]

Reporter [illegible]

Draft Drawn

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Comp. Ex. 12
[illegible]

A.

Name: [illegible] To [illegible]
Date: [illegible]-12-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
7170	34	Bit	3	16 75		1200 97

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

B.

Name: [illegible] To [illegible]
Date: 8-12-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14[illegible]00	67	Bit	2	16 75		2412 00
14[illegible]00	68		3			2445 50

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

C.

Name: [illegible] To Hunte [illegible]
Date: 8-13-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
1[illegible]180	66	Bit	2	16 75		2375 15
1[illegible]20	67		2			2415 35

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

D

Name: [illegible] To Hunte [illegible]
Date: 8-13-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14[illegible]40	69	Bit	1	16 75		2485 70
15000	70		1			2512 50

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

E.

Name: [illegible] To Hunte [illegible]
Date: 8-13-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
[illegible]90	68	Bit	1	16 75		244[illegible]
14200	66		1			2378 50

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

F.

Name: [illegible] To Hunte [illegible]
Date: 8-13-16 Address: [illegible]

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
[illegible]60	28	Bit	7	16 70		922.21
[illegible]60	19		9	16 50		1217.9[illegible]

Weigher:

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D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 YARDS OPEN 7 to 3

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

Comp. Ex. 13

C's Ex 13

Bought for Hunter Packing Company
East St. Louis, Illinois

August 22, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Trucks prepaid			36	6900		16.85	1,162.65	
			600	133520		17.10	22,831.92	
			12	3535		16.60	586.81	
			648	143955			$24,581.38	

Draft Drawn

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 13 Docket No. [illegible]

Hearing [illegible]

Offered by Complainant

Date [illegible]

Reporter

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Comp Ex. 14

Co Ex 14
JDMB

A

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
6900	36	But	8	16 85		1162 65
3535	12	✓	10	16 60		586 81

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

B

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15200	68	But	✓	17 10		2599 20
14900	67		✓			2547 90

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

C.

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
15000	67	But	1	17 10		2565 00
14500	61		1			2479 50

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

D

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14[illegible]20	66	But	1	17 10		2471 [illegible]
14[illegible]00	66					2413 70

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

E.

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
13840	62	But	✓	17 10		2366 64
14050	63		✓			2402 55

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

F.

Name: Sold To Hunter Pkg Co

Date: 8-22-56 Address: E St Louis

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
13400	60	But	3	17 10		2291 40
3210	16		3			548 91

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 YARDS OPEN 7 to 3

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

Cs Ex 15

Comp. Ex. 15

Hunter Packing Co.

East St. Louis, Illinois

Aug 29, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Prepaid			747	165980		16.50	$27,386.70	
					Draft			

U. S. DEPARTMENT OF AGRICULTURE

Docket No. 2261

Exhibit No. 15

Hearing H. L. Sparks

Offered by Complainant

Date 4/5/57

Reporter Yeager

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Comp. Ex. 16

A.

Name: Sold to Hunter Pkg Co

Date: 8-29-56 Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
1[illegible]30	60			16.50		4239.32
1[illegible]675	61					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

B.

Name: Sold to Hunter Pkg Co

Date: 8-29-56 Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
1[illegible]00	58			16.50		4106.50
120[illegible]	54					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

C.

Name: Sold to Hunter Pkg Co

Date: 8-29-56 Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
7330	33			16.50		1209.45

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

D

Name:

Date: Address:

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT	DOCK	AMOUNT
1[illegible]35	62			16.50		4609.27
142[illegible]0	64					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

E.

Name: Sold to Hunter Pkg Co

Date: 8-29-56 Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT	DOCK	AMOUNT
13[illegible]90	62			16.50		4473.15
133[illegible]	60					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

F

Name: Sold to Hunter Pkg Co

Date: 8-29-56 Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT	DOCK	AMOUNT
[illegible]	59			16.50		4[illegible]
[illegible]00	59					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois

D. L. MAINS CO., WHEATON, ILL.

G.

Name:

Date: Address:

WGT.	HD	KIND OF LIVESTOCK	PEN NO	PRICE PER CWT	DOCK	AMOUNT
	[illegible]			16.[illegible]		4[illegible]
[illegible]10	59					

Weigher:

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D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 YARDS OPEN 7 to 3

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

C's Ex 17

Comp. Ex. 17

Bought for Hunter Packing Co.
East St. Louis, Illinois

Sept 6, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Prepaid			869	196670		16.35	$32,155.54	
					Draft			

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. ________ Docket No. [illegible]
Hearing [illegible]
Offered by Complainant
Date [illegible]
Reporter [illegible]

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Comp. Ex. 18

1s w/18
JMD

A.

Name: Sold to Hunter Pkg Co
Date: 9-6-56
Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT	DOCK	AMOUNT
13530	60			16.35		4387.51
13305	59					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

B.

Name:
Date:
Address:

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT	DOCK	AMOUNT
14[illegible]0	63			16.35		4512.59
133[illegible]	59					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

C.

Name:
Date:
Address:

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
13[illegible]0	58			16.35		4445.56
14040	62					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

D

Name: Sold to Hunter Pkg Co
Date: 9-6-56
Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
12220	54			16.35		4331.9
[illegible]75	63					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

E.

Name: Sold to Hunter Pkg Co
Date: 9-6-56
Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
10[illegible]00	45			16.35		3485.8
11120	49					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

F.

Name: Sold to Hunter Pkg Co
Date: 9-6-56
Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
[illegible]00	61			16.35		2256.39

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

G.

Name: Sold to Hunter Pkg Co
Date: 9-6-56
Address: E St Louis Ill

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
13[illegible]55	60			16.35		4367.9
13150	58					

Weigher:

Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

H.

Name:
Date:
Address:

WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
13080	60			16.35		4367.90
13135	58					

Weigher:

Sold to MIDWEST ORDER BUYERS, [illegible] Office, Chapin, Illinois
D. L. MAINS CO., WHEATON, ILL.

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MID-WEST ORDER BUYERS

TELEPHONE No. 8 **YARDS OPEN 7 to 3**

CHAPIN, ILLINOIS

BRANCHES IN ILLINOIS AND MISSOURI

Ex 19 Cs Ex 19
JMB

Comp. Ex. 19

Bought for Heil Packing Company
2216 S. LaSalle st.,
St. Louis, Missouri

October 20, 1956

ROUTE AND CAR No.	CATTLE	SHEEP	HOGS	WEIGHT	DOCK	PRICE	AMOUNT	TOTAL
Trucks prepaid			353	81400		16.10	$13,105.40	
						Serv.	45.00	
							$13,150.40	

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 19 Docket No. [illegible]

Hearing [illegible]

Offered by Complainant

Date [illegible]

Reporter [illegible]

Mail check to H. L. Sparks & Co.,
National Stockyards, Ill.

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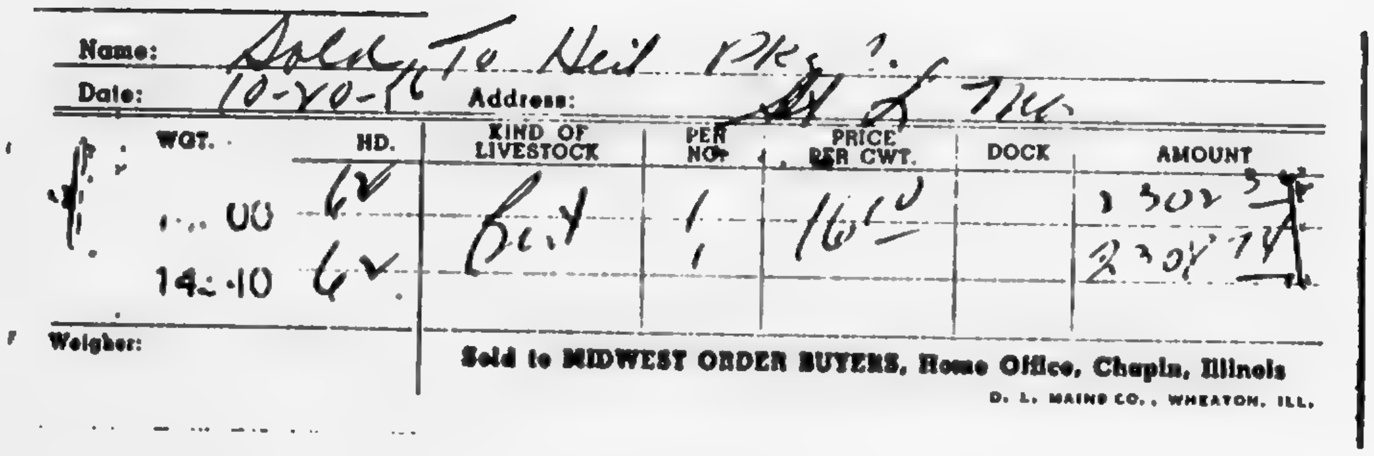
Comp Ex. 20

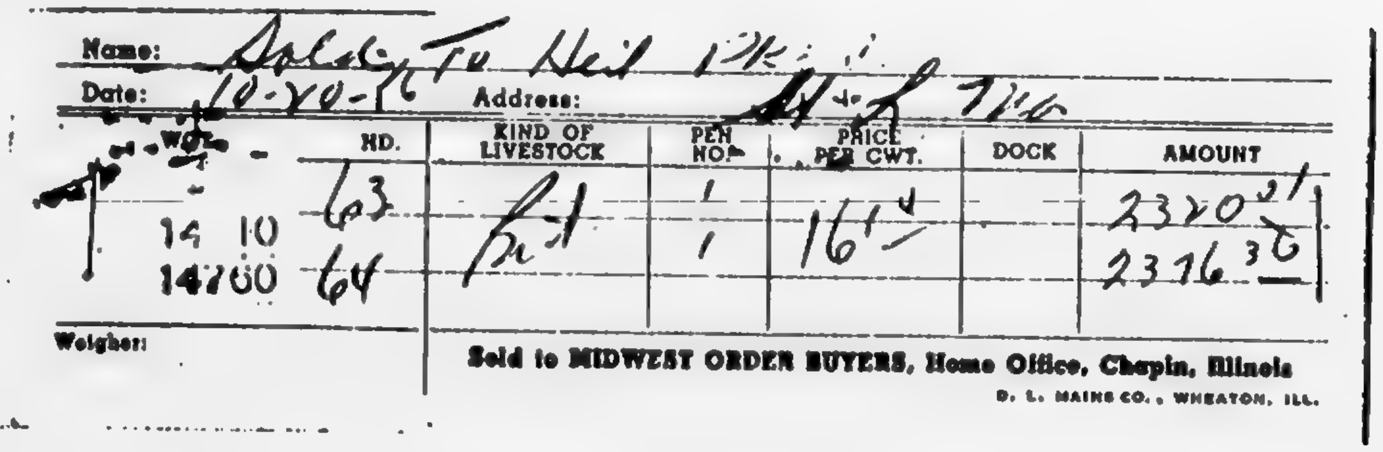
A.



Name:	Sold To Heil Pkg. Co.					
Date:	10-20-56	Address:	St. L. Ill.			
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
[illegible]00	62	But	1	16.00		2302.[illegible]
14410	62		1			2308.74
Weigher:		Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois				

D. L. MAINS CO., WHEATON, ILL.

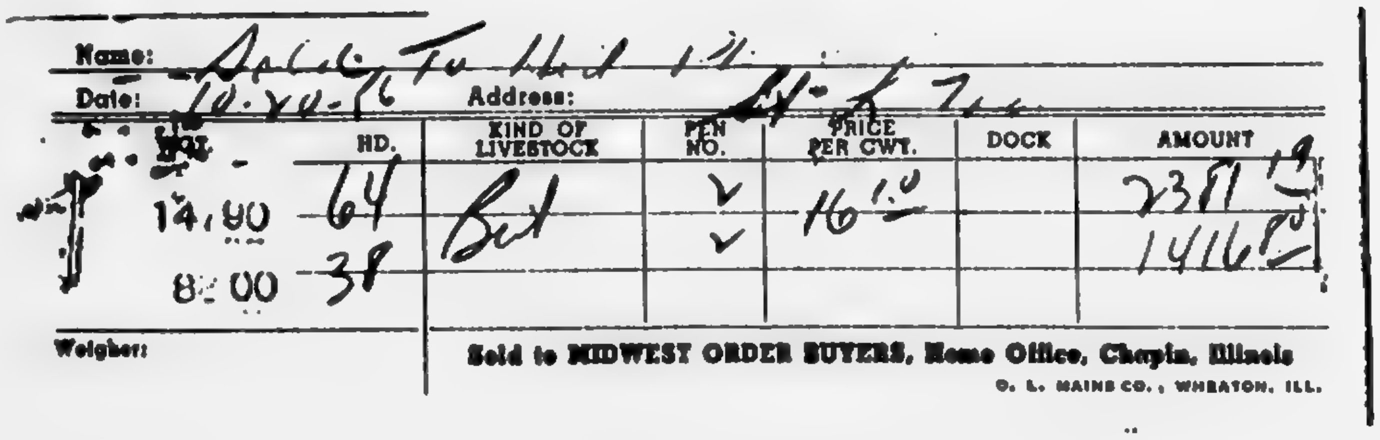
B.



Name:	Sold To Heil Pkg. Co.					
Date:	10-20-56	Address:	St. L. Ill.			
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14410	63	But	1	16.10		2320.01
14760	64		1			2376.36
Weigher:		Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois				

D. L. MAINS CO., WHEATON, ILL.

C.



Name:	Sold To Heil Pkg. Co.					
Date:	10-20-56	Address:	St. L. Ill.			
WGT.	HD.	KIND OF LIVESTOCK	PEN NO.	PRICE PER CWT.	DOCK	AMOUNT
14790	64	But	2	16.10		2381.19
8800	38		2			1416.80
Weigher:		Sold to MIDWEST ORDER BUYERS, Home Office, Chapin, Illinois				

D. L. MAINS CO., WHEATON, ILL.

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AFFIDAVIT FORM

Cs Ex 42
Cs Ex 42
JWB

TOWN OF CHAPIN
COUNTY OF MORGAN ss:
STATE OF ILLINOIS

Before me, EARL W. SHERMAN, an employee of the Department of Agriculture of the United States, designated by the Secretary of Agriculture under authority of the Act of January 31, 1925 (43 Stat., 803), personally appeared GEORGE J. ISCHER JR. (Name) GENERAL MANAGER OF MIDWEST ORDER BUYERS, who deposes and says: I reside at number 1 North Crescent Drive Jacksonville, Illinois. As general manager I make all the bills or invoices which are sent to the various buyers. These invoices show the number of head and weight and price and total amount of each price category. The weights shown on the invoice are sometimes reweigh weights and sometimes they are the original buy weights and at other times they are weights obtained by adding a certain amount to the original buy weights so as to take care of the shrink. These weights always have to satisfy the packer because otherwise he would kick about his yield. One such instance occurred in billing Hunter Packing Co. on March 7, 1956. The buy weight was 136,135 lbs for 639 hogs. The invoice to Hunter showed 137,950 lbs or a difference of 1815 lbs. Some of these hogs were reweighed while weight was added to others when making the invoice. The off truck weight at E. St. Louis was 133,665 lbs.

When we buy hogs from the farmers we always give good honest weights. Our scales are accurate and have springs balance indicators.

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We invite the farmers in to watch us weigh their Hogs. Our scales are tested by the State of Illinois.

We do not send scale tickets with our invoices unless requested to do so by the Packer. Hunter requests these scale tickets.

I report to Mr. H. L. Sparks at National Stock Yards, several times a day. I stated that I made all the bills or invoices, actually I our my assistants make out these bills to the buyers. I don't always do it personally.

On occasions we have hogs that show a big loss in weight from the buy weights and we stand these losses when we bill the buyer.

George J. [illegible] Jr.
(Signed)

SUBSCRIBED AND SWORN to before me at [illegible], Illinois
on this 1st day of February 1957

Earle W. Sherman
Employee of the Department of Agriculture
designated under Act of January 31, 1925.

Witnessed By:
Robert H. McCoy

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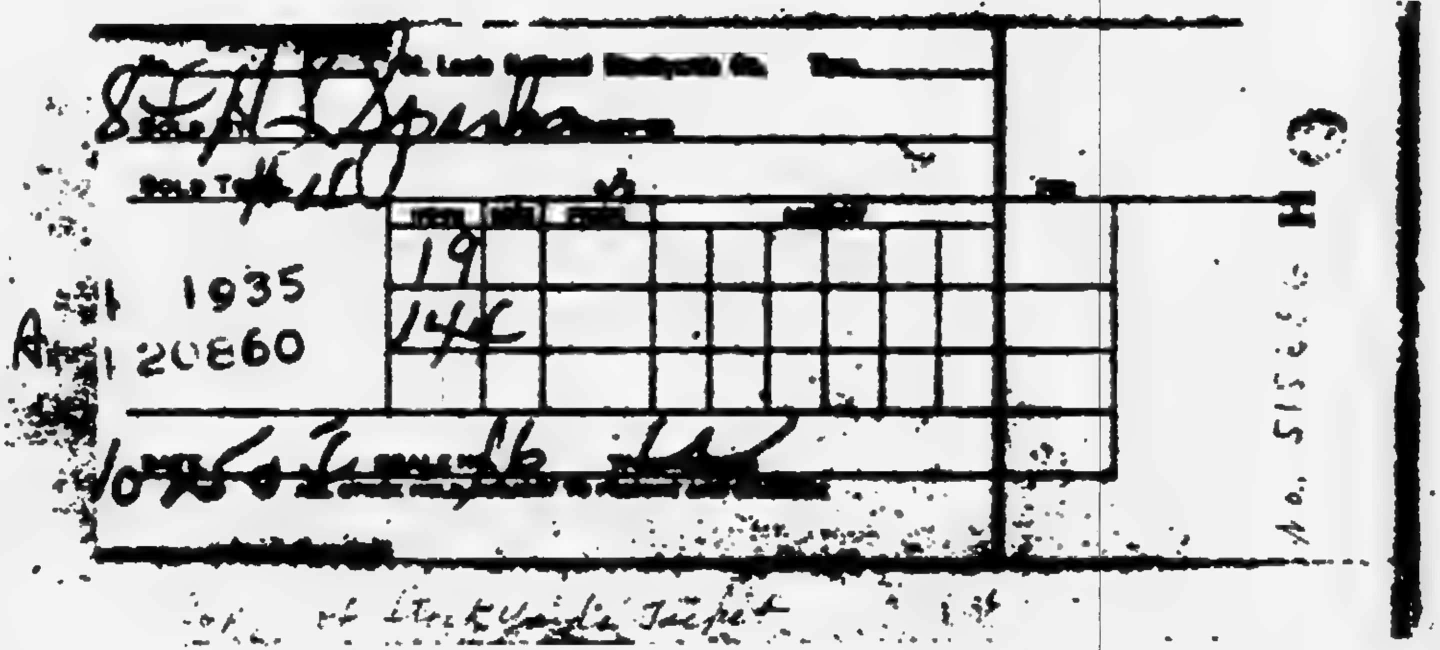
Comp Ex 43

C' Ex 43
JMB



St. Louis National Stockyards Co. Time

Sold By H L [illegible]

Sold To # [illegible]

A

1935

20860

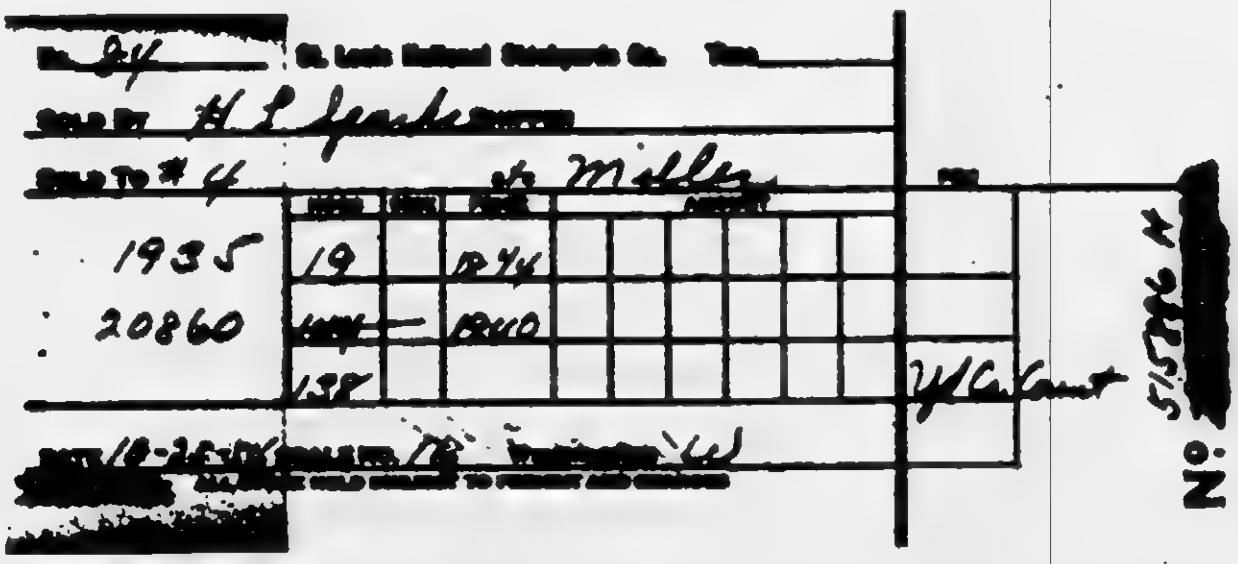
19			
144			

[illegible]

No. 515[illegible] H

Copy of Stockyards Ticket

B.



No. 94 St. Louis National Stockyards Co. Time

Sold By H L [illegible] Owner

Sold To # 4 [illegible] Miller

1935

20860

19		1244	
~~[illegible]~~		1240	
138			W [illegible]

Date 10-25-35 Scale No. 78 Weighman W

No. 515786 H

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Comp. Ex. 44

H. L. Sparks + Co. C's Ex 44

National Stock Yards, Ill.
St. Clair County

Date: Oct. 25, 1954

~~Bought For~~/Sold To Chas. Miller + Co.
Union City, NJ

	Hogs	Weight	Dock	Price	Amount	Total
Via N/P	19	1935		18.25	353.15	
PRR 134431-135236	138	20860		19.40	4046.84	
	22	3195		19.40	619.83	
	179	25990				5,019.80
Charges: Feeding						2.00
						15.00 *
Total:						5,036.80

Amount to be wired

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 44 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

4/10/59

Reporter Jaeger

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C's Ex 45

No. 45 **St. Louis National Stockyards Co.** Time

SOLD BY SHIPPER

SOLD TO a/c

HOGS	DOCK	PRICE	AMOUNT	PEN
155				

DATE SCALE NO. WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 853819 H

No. **St. Louis National Stockyards Co.** Time

SOLD BY SHIPPER

SOLD TO a/c

HOGS	DOCK	PRICE	AMOUNT	PEN

DATE SCALE NO. WEIGHMASTER

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

H [redacted]

Y AVAILABLE
al bound volume

Comp. Ex. 46

C'Ex 46

JMB

H. L. Sparks & Co.
National Stock Yards, Ill.
St. Clair County

Date: July 20, 1955

~~Bought For~~/Sold To: Oscar Packing Co.
Augusta, Ga.

	Hogs	Weight	Dock	Price	Amount	Total
Via truck	146	24035		15.25	3665.33	
					15.00 *	

Charges:	Trkg.	276.40	
	Tax	8.29	
	Exch.	9.94	
	Feed	12.90	
Total:			$ 3,987.86 Draft.

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 46 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/16/57

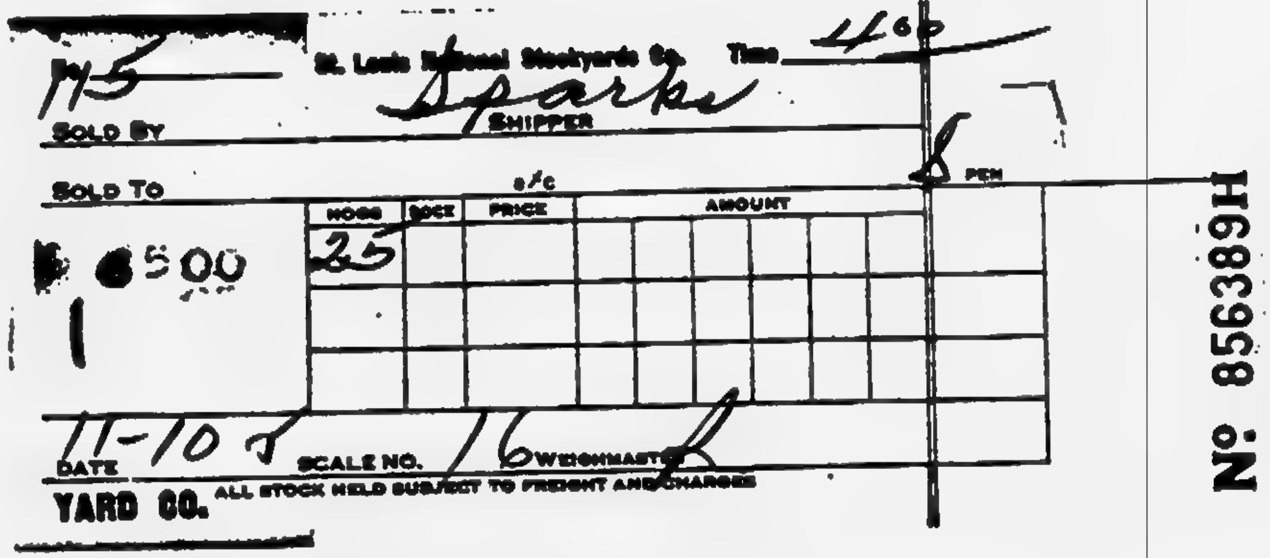
Reporter Jaeger

BEST COPY
from the origina

Comp. Ex. 47

Co Ex 47.
JMB

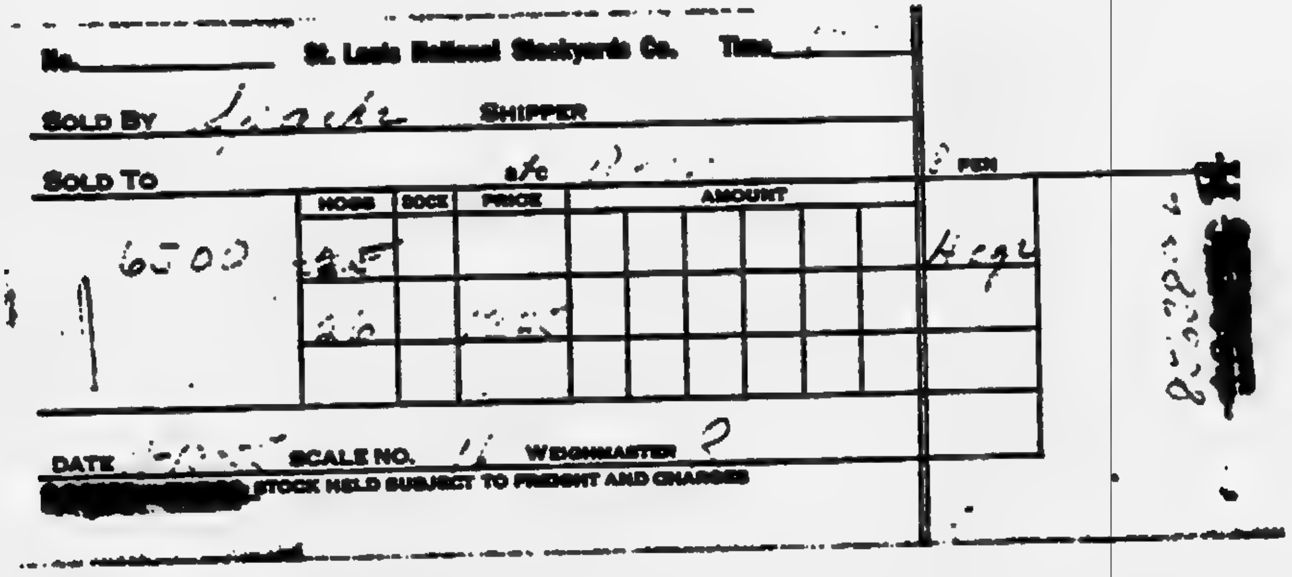
A.


No. 175 St. Louis National Stockyards Co. Time 4
SOLD BY Sparks SHIPPER
SOLD TO a/c 8 PEN

	HOGS	DOCK	PRICE	AMOUNT	PEN
6500	25				
1					

DATE 11-10 SCALE NO. 16 WEIGHMASTER
YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES
Nº 856389H

B


No. St. Louis National Stockyards Co. Time
SOLD BY Sparks SHIPPER
SOLD TO a/c PEN

	HOGS	DOCK	PRICE	AMOUNT	PEN
6500	25				Hogs
1	20		[illegible]		

DATE [illegible] SCALE NO. 16 WEIGHMASTER
[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES
[redacted]

AVAILABLE
bound volume

Comp. Ex 48

Co' Ex 48

JMB

H. L. Sparks + Co.
National Stockyards, Ill.
St. Clair County

Date: Nov. 11, 1955

~~Bought For~~/Sold To Bidermann + Moss Inc.
Philadelphia, Pa.

	Hogs	Weight	Dock	Price	Amount	Total
Via Penn	30	8055		13.00	1	047.15
PRR 135747	26	6500		13.25		861.25
	17	4700		12.90		606.30
	13	2425		11.00		266.75
	18	4880		13.00		634.40
	104	26560			3	415.85
	Charges: Loading					2.00
						15.00 *
	Exch.					3.45
	Total:					# 3,43628

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 48 Docket No. 2261 -

Hearing H. L. Sparks -

Offered by Complainant

Date 4/16/57

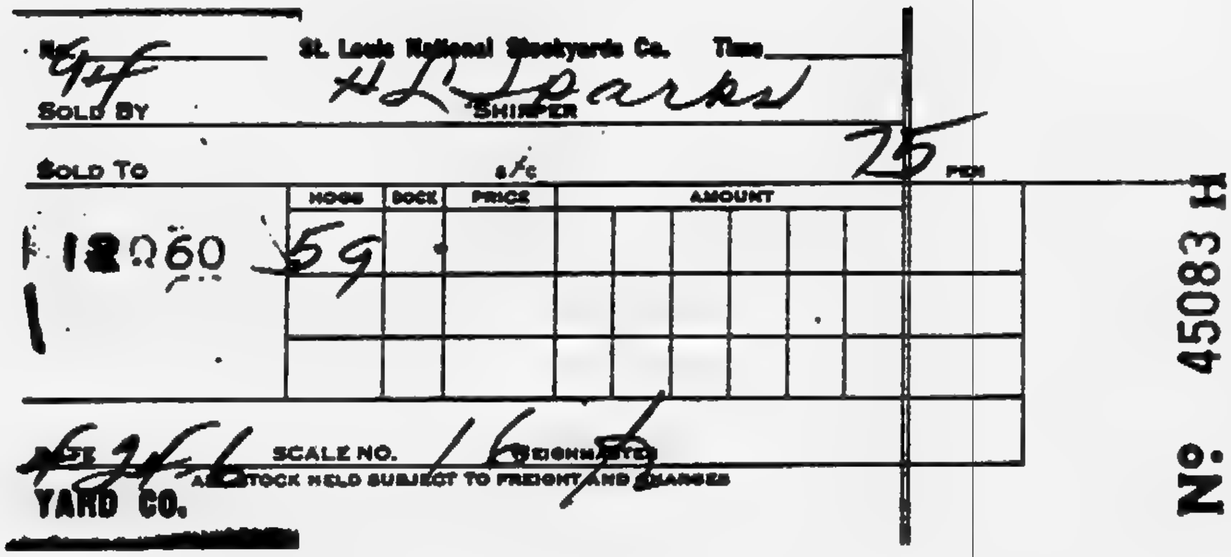
Reporter Jaeger

BEST COPY
from the origin

Comp. Ex. 49

Co Ex 49

A



No. 94 St. Louis National Stockyards Co. Time

Sold By H L Sparks Shipper

Sold To a/c 25 Pen

	Hogs	Dock	Price	Amount
12060	59			
1				

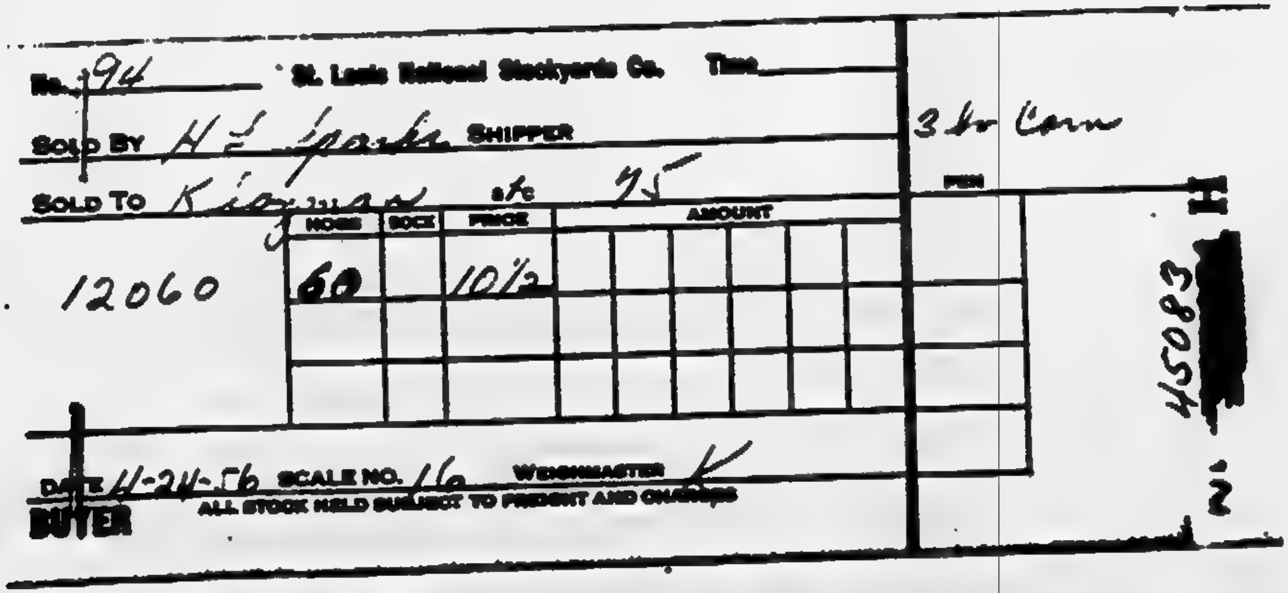
Date 24-6 Scale No. 16 Weighmaster

All stock held subject to freight and charges

Yard Co.

No. 45083 H

B.



No. 94 St. Louis National Stockyards Co. Time

Sold By H L Sparks Shipper

Sold To Kiozman a/c 75

3 lb Corn

Pen

	Hogs	Dock	Price	Amount
12060	60		10½	

Date 11-24-56 Scale No. 16 Weighmaster K

All stock held subject to freight and charges

Buyer

No. 45083 H

AVAILABLE
al bound volume

○ Comp. Ex. 50

Co Ex 50

H. L. Sparks & Co.
National Stock Yards, Ill. JWB
(St. Clair County) Date: April 25, 1956

[redacted]/Sold To I. Klayman & Co.
Philadelphia, Pa.

	HOGS	Wei_ht	Dock	Price	Amount	Total
Via Penn.	60	12060		10.50	1266.30	
PL 128386	14	2570		10.00	257.00	
	15	2470		14.25	351.97	
	89	17100			1875.27	

Charges: Yarding	4.00	
	10.00	*
Exchange	1.89	
Feed.	6.15	
Total:	$1897.31 Draft	

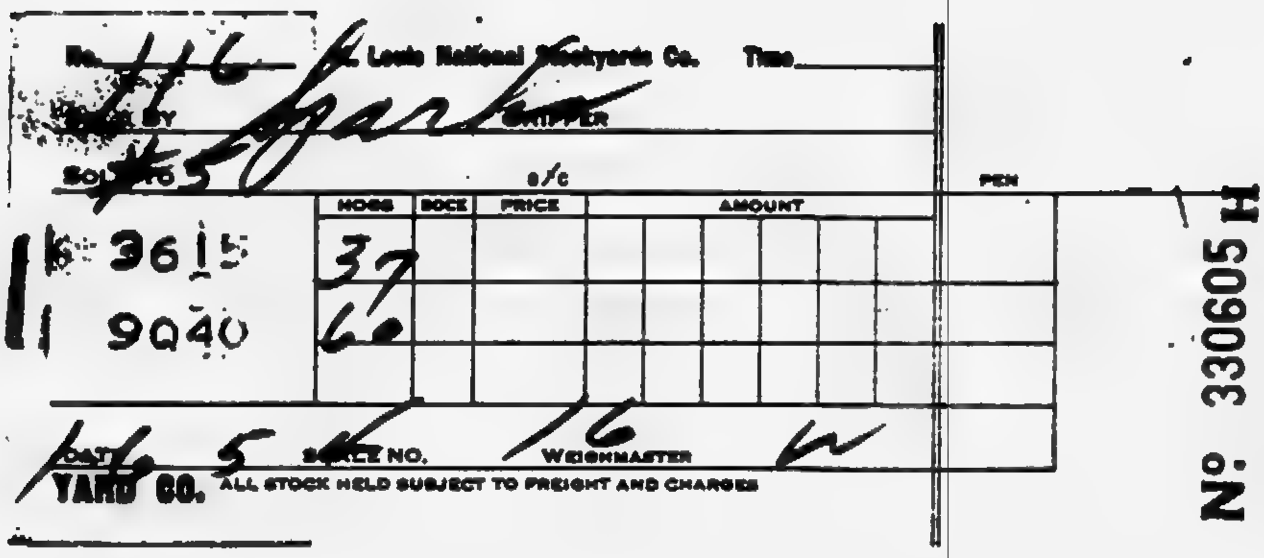
U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 50 Docket No. 2261
Hearing H. L. Sparks
Offered by Complainant
Date 4/16/59
Reporter Jaeger

BEST COP
from the origi

Comp. Ex. 51

Co Ex 51

A.



No. 116 St. Louis National Stockyards Co. Time

Sold By Sparks Shipper

Sold To #5 a/c

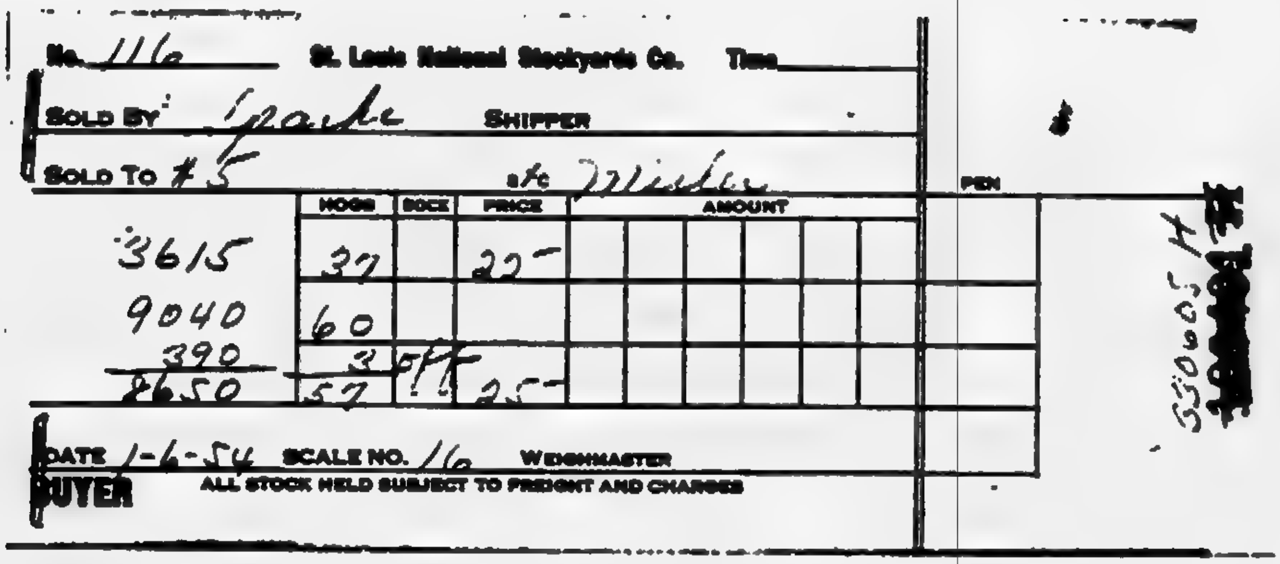
	HOGS	BOCK	PRICE	AMOUNT	PEN
3615	37				
9040	60				

Date 1-6 5 Scale No. 16 Weighmaster W

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 330605 H

B.



No. 116 St. Louis National Stockyards Co. Time

Sold By Sparks Shipper

Sold To #5 a/c [illegible]

	HOGS	BOCK	PRICE	AMOUNT	PEN
3615	37		22–		
9040	60				
390	3	Off			
8650	57	Off	25–		

Date 1-6-54 Scale No. 16 Weighmaster

BUYER ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

330605 H

Y AVAILABLE
inal bound volume

O Comp. Ex. 52

Co Ex 52
JDB

H. L. Sparks & Co.
National Stock Yards, Ill.
(St Clair County)

Date: Jan 6, 1957

~~Freight For~~/Sold To Chas. Miller & Co
Union City, N.J.

		Weight	Duck	Price	Amount	Total
via truck	60	11355		25.75		2923.91
	37	3615		22.–		795.30
	57	8650		25 –		2162.50
	154	23620				5881.71

Charges:		15.00 *
1 hy		186.00
1 a/		5.67
c/ch		6.34
Total:		6997.68 Draft

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 52 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/16/57

Reporter Jaeger

BEST COPY
from the origin

Comp. Ex. 5

[illegible] Ex 55

[illegible]

A.

No. ~~113~~ St. Louis National Stockyards Co. Time

SOLD BY Sparks SHIPPER

SOLD TO #5 a/c

	HOGS	DOCK	PRICE	AMOUNT	PEN
[illegible]430	93				

DATE 9-7 SCALE NO. 16 WEIGHMASTER H

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 569248 H

B

No. 113 St. Louis National Stockyards Co. Time

SOLD BY Sparks SHIPPER

SOLD TO a/c Neuhoff Dallas

	HOGS	DOCK	PRICE	AMOUNT	PEN
16030	93				
4960	30				
11070	63				

DATE 9-7 SCALE NO. 16 WEIGHMASTER H

[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES

569248 H

Y AVAILABLE
nal bound volume

Comp. Ex. 56

Co Ex 56

JMB

[illegible]

National Stock Yards Ill

(H. Earl Crouse)

Date: [illegible]

~~Purchaser~~/Sold To Neuhoff [illegible] Co Inc

Dallas, Texas

	Hogs	Wei_ht	Dock	Price	Amount	Total
[illegible] MP	157	32075		20.00		[illegible]
MP [illegible]						

Charges: Feeding		12.00 [illegible]

Total: $ [illegible]

Amount to be [illegible]

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 56 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/16/57

Reporter Jaeger

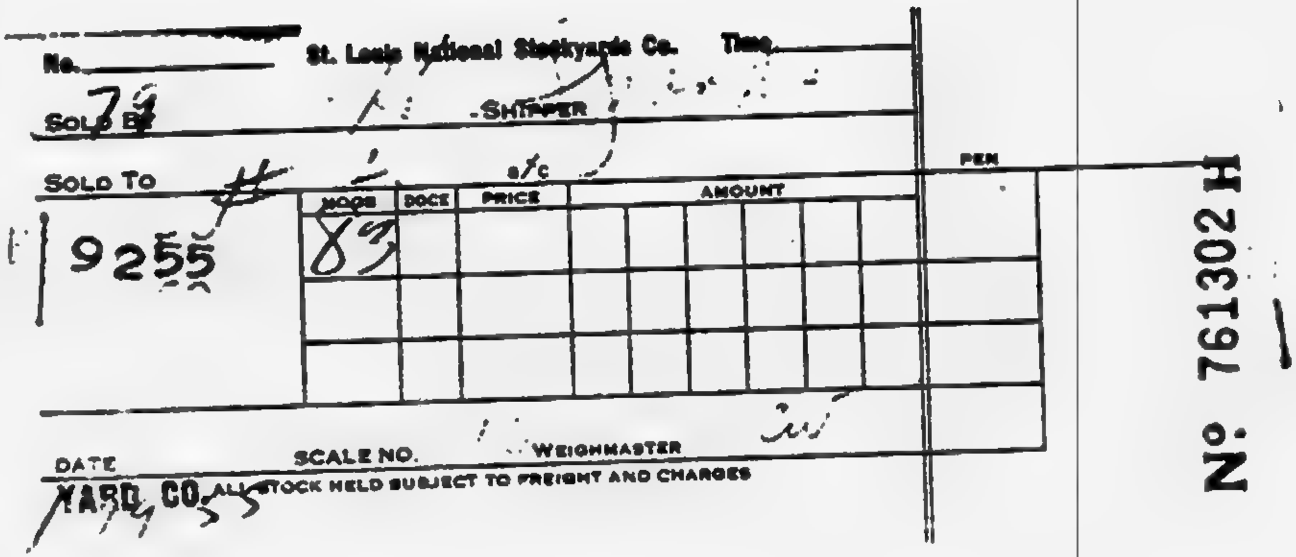
BEST COPY
from the origina

Comp. Ex. 57

C Ex 57

JMB

A



No. ______ St. Louis National Stockyards Co. Time ______

Sold By 79 [illegible] Shipper [illegible]

Sold To # [illegible] a/c

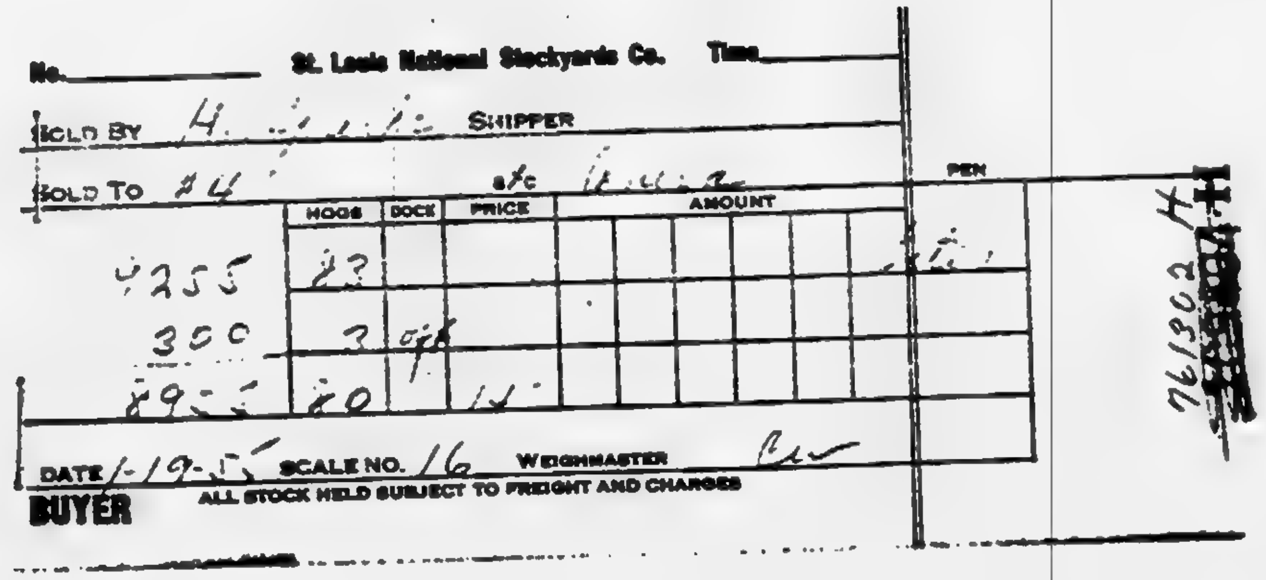
	Hogs	Dock	Price	Amount	Pen
9255	83				

Date 1-19-55 Scale No. Weighmaster

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 761302 H

B.



No. ______ St. Louis National Stockyards Co. Time ______

Sold By H. [illegible] Shipper

Sold To #4 a/c [illegible]

	Hogs	Dock	Price	Amount	Pen
9255	83				[illegible]
300	3	off			
8955	80		14		

Date 1-19-55 Scale No. 16 Weighmaster

BUYER ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

761302 H

Y AVAILABLE
al bound volume

Comp. Ex. 58

Co Ex 58
JMB

H. L. Sparks & Co.
National Stock Yards, Ill.
(St. Clair County) Date: Jan 20, 1955

~~Bought For~~/Sold To Owens Packing Co.
Augusta Ga

Route & Car	HOGS	Weight	Dock	Price	Amount	Total
Via Truck	80	8955		14.–	1253.70	
Please Pay Trucking [illegible]	17	2040		14.–	285.60	
W. A. Murphy Pkg. Co.	14	1210		13.50	163.35	
Nashville, Tenn.	14	1425		13.50	192.37	
	45	5050		14.00	707.00	
	20	2795		15.50	433.22	
	190	21475			$3	035.24

Charges:		
		15.00 *
W. charge		[illegible]
Cost paid to Truckers.		15.00
Total	$3	072.93

[illegible]

Total:

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 58 Docket No. 2261
Hearing H. L. Sparks
Offered by Garry Carnaink
Date 4/16/57
Reporter Jaeger

BEST COP
from the orig

Comp. Ex. 59

Co Ex 59

JMB

No. St. Louis National Stockyards Co. Time

SOLD BY Sparks SHIPPER

SOLD TO

a/c

A. 2875

	HOGS	SOCS	PRICE	AMOUNT	PEN
2875	27				T

DATE 13 SCALE NO. 16 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 880822 H

No. St. Louis National Stockyards Co. Time

SOLD BY Sparks SHIPPER

SOLD TO a/c Lubra

	HOGS	SOCS	PRICE	AMOUNT	PEN
2875	27			St Paige	
1615	15				
1260	2		14 3/4		

DATE 7-13 SCALE NO. 16 WEIGHMASTER

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 880822 H [redacted]

PY AVAILABLE
inal bound volume

O Comp. Ex. 60

Co Ex 60

JMB

H. L. Sparks & Co.
National Stock Yards, Ill.
(St. Clair County)

Date: July 15, 1955

~~Bought For~~/Sold To Owen Packing Co.
Augusta, Ga.

	Hogs	Weight	Dock	Price	Amount	Total
Via truck	25 19	3415 2090		16.25 14.25	554.93 297.82	
	12	1260		14.75	185.85	
	10	915		14.50	132.67	
	16 53	2525 7810		17.35 16.75	438.08 1208.17	
	43 10	5660 955		15.75 13.75	891.45 131.31	
	188	24630			$3 940.28	
Charges:					15.00	*
				Tkg.	262.74	
				Yd Feed	8.50 10.75	
				C/ch	1064	
				Total	$4	264.41 Draft
Total:						

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 60 Docket No. 2261
Hearing H. L. Sparks
Offered by Complainant
Date 4/10/57
Reporter Jaeger

BEST COP
from the orig

Comp. Ex. 61

Cs Ex 61

5/7/73

No. 103 H.L. Sparks **St. Louis National Stockyards Co.** Time

SOLD BY SHIPPER

Hogs SOLD TO a/c

	HOGS	DOCK	PRICE	AMOUNT	PEN
3955	20				

DATE 7-9 SCALE NO. 16 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 512432 H

No. **St. Louis National Stockyards Co.** Time

SOLD BY H. L. Sparks SHIPPER

SOLD TO a/c

B

	HOGS	DOCK	PRICE	AMOUNT	PEN
3955	20				
250	1	15.50			
4205	21				

DATE SCALE NO. 16 WEIGHMASTER

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

512432 H

PY AVAILABLE
ginal bound volume

H. L. Sparks + Co.
National Stock Yard, Ill.
(St. Clair County) Date: July 10, 1957

C's Ex 62
JMB

~~Bought For~~/Sold To I. Kleyman + Co.
Philadelphia, Pa.

Deck Pen 182 w. 550
Hogs from Count (189)

	Hogs	Wei_ht	Dock	Price	Amount	Total
Via B+O	11	5910		10.50	620.55	
NYC 27260-27283	16	8630		10.50	906.15	
	21	4205		16.50	693.82	
	38	8825		16.50	1,456.12	
	32	6810		18.00	1225.80	
	72	14265.		18.00	2567.70	
	190	48645				7470.14

Charges:		
	Trucking	4.00
		30.00 *
	Ex ch.	7.52
	Feed	21.50
Total:		7533.16 Draft

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 62 Docket No. 226
Hearing H. L. Sparks
Offered by Complainant
Date 4/16/57
Reporter Jayne

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from the origi

Comp. Ex.

CS Ex 63

No. 10 St. Louis National Stockyards Co. Time

SOLD BY Bzarks SHIPPER

SOLD TO #15 a/c

PEN

A.

	HOGS	DOCK	PRICE	AMOUNT	PEN
530	6				
390	1				

DATE 10-7 SCALE NO. 16 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 588615 H

No. St. Louis National Stockyards Co. Time

SOLD BY [illegible] SHIPPER

SOLD TO #115 a/c [illegible]

PEN

B.

	HOGS	DOCK	PRICE	AMOUNT	PEN
530	6		13 –		
[illegible]	1		12 –		
500	1		12 –		

DATE 10-2 SCALE NO. WEIGHMASTER

[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES

H [redacted]

PY AVAILABLE
inal bound volume

Comp. Ex, 64

Co' Ex 64
JMB

H. L. Sparks & Co.
National Stock Yards, Ill.
(St. Clair County)

Date: Nov. 2, 1954

~~Bought For~~/Sold To Wolverine Pkg. Co.
Fraser, Mich

		Weight	Dock	Price	Amount	Total
via truck	12 4 25 13					
	1	745		12.50	93.12	
	6	520		13.00	68.20	
	1	790		12.00	46.80	
	1	500		12.50	62.52	
	63	25415			3364.72	

Charges:

	15.00 k
Trucking	228.73
T of	1.86
C/ch	1.80

Total: $3,617.11

Please send check

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 64 Docket No. 2261
Hearing H. L. Sparks
Offered by Complainant
Date 4/10/57
Reporter Joseph

BEST COP
from the orig

[illegible]

[illegible] Ex 65

5017-3

No. 89 St. Louis National Stockyards Co. Time

SOLD BY SHIPPER

SOLD TO H15 a/c

13360

HOGS	DOCK	PRICE	AMOUNT	PEN
75				

DATE 9-11 SCALE NO. 9 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 251165 H

No. 96 St. Louis National Stockyards Co. Time

SOLD BY SHIPPER

SOLD TO H16 a/c

16510

HOGS	DOCK	PRICE	AMOUNT	PEN
77				

DATE 9-11 SCALE NO. WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 251172 H

No. 97 St. Louis National Stockyards Co. Time

SOLD BY SHIPPER

SOLD TO H17 a/c

11770

11770

HOGS	DOCK	PRICE	AMOUNT	PEN
63				

DATE 9-11 SCALE NO. 6 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 251173 H

PY AVAILABLE
inal bound volume

Comp. Ex. 66

C's Ex 66

No. 89 St. Louis National Stockyards Co. Time

Sold By Sparks Shipper

Sold To # 15 a/c Krey

	HOGS	DOCK	PRICE	AMOUNT	PEN
13360	75				

DATE 9-11 SCALE NO. 16 WEIGHMASTER CH

[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES

251165 H [redacted]

No. 96 St. Louis National Stockyards Co. Time 4:15

Sold By Sparks Shipper

Sold To # 16 a/c Krey

	HOGS	DOCK	PRICE	AMOUNT	PEN
16510	87		15.75		

DATE 9-11 SCALE NO. 16 WEIGHMASTER CH

[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES

251172 H [redacted]

No. 97 St. Louis National Stockyards Co. Time

Sold By Sparks Shipper

Sold To # 17 a/c Krey

	HOGS	DOCK	PRICE	AMOUNT	PEN
11770	63		15.75		

DATE 9-11 SCALE NO. 16 WEIGHMASTER CH

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

251175 H [redacted]

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from the orig

Comp. Ex. 67

C's Ex 67
JMB

H. L. Sparks & Co.
National Stock Yards, Ill.
St. Clair County
Date: Sept. 12, 1956

[illegible]/Sold To Krey

	Hogs	Weight	Dock	Price	Amount	Total
	87	16510		15.75		2600.32
	75	13360		15.50		2070.80
	63	11770		15.75		1853.77
	225	41640		Total		$6524.89

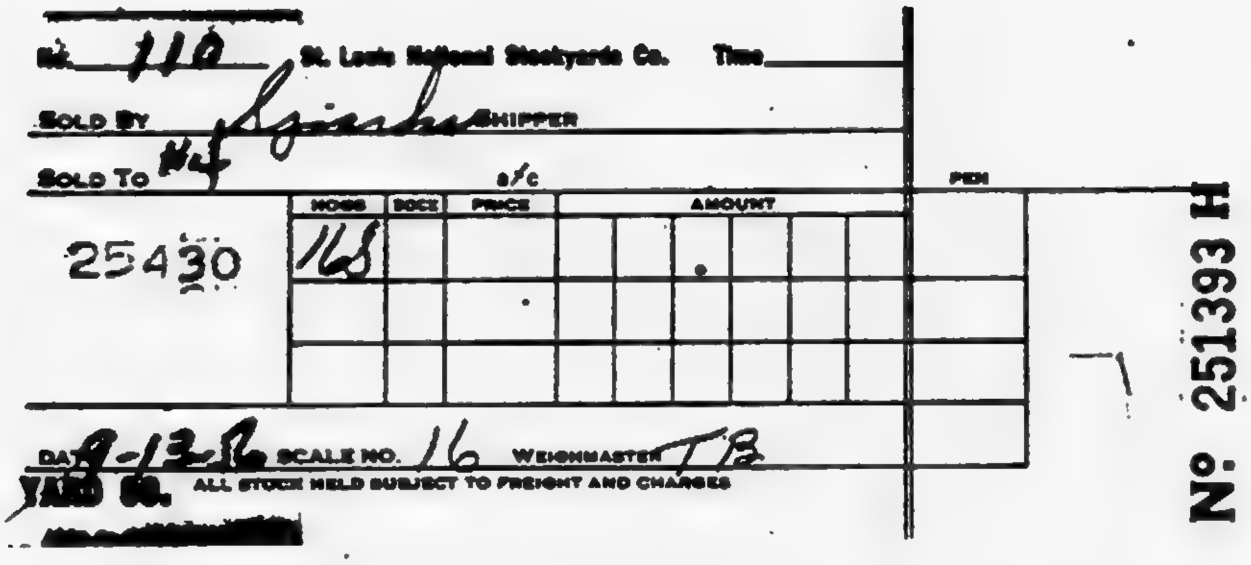
Charges:

Total:

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 67 Docket No. 2261
Hearing H. L. Sparks
Offered by Complainant
Date 4/16/57
Reporter Jouger

Y AVAILABLE
inal bound volume

Comp. Ex. 68
C's Ex 68



[illegible] 110 St. Louis National Stockyards Co. Time

SOLD BY Sparks SHIPPER

SOLD TO [illegible] a/c

	HOGS	[illegible]	PRICE	AMOUNT	PEN
25430	168				

DATE 9-13-56 SCALE NO. 16 WEIGHMASTER T B

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

Nº 251393 H

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 68 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/16/57

Reporter Jaeger

BEST COP
from the orig

Comp. Ex. 69

C's Ex ~~#~~69

JMB

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 69 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/16/57

Reporter Jaeger

No. 110 **St. Louis National Stockyards Co.** **Time**

Cam 5 hr

SOLD BY [illegible] **SHIPPER**

SOLD TO #4 [illegible]

	HOGS	DOCK	PRICE	AMOUNT	PEN
[illegible]	168		14.60		

DATE [illegible] **SCALE NO.** 16 **WEIGHMASTER** TB

ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

251393 H

No. [illegible] **St. Louis National Stockyards Co.** **Time**

SOLD BY Sparks **SHIPPER**

SOLD TO #12 [illegible]

	HOGS	DOCK	PRICE	AMOUNT	PEN
65075	[illegible]		14.60		

DATE 1-14-56 **SCALE NO.** 16 **WEIGHMASTER** TB

ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

251412 H

PY AVAILABLE
inal bound volume

Comp. Ex. 70

Cs Ex 70

N. L. Sparks + Co.
National Stock Yards, Ill. JMB
St. Clair County

Date: Sept. 14, 1956

[redacted]/Sold To Chas. Miller + Co
North Bergen, N.J.

	Hogs	Wei_ht	Dock	Price	Amount	Total
Via NKP	168	25430		14.60		3712.78
NYC 28433 –	166	25075		14.60		3660.95
28002						
	334	50505				7373.73

Charges: Sorting	4.00
	30.00 *
Feed	10.75
Total:	$ 7418.48

U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 70 Docket No. 2261
Hearing N. L. Sparks
Offered by Complainant
Date 4/16/57
Reporter Jaeger

BEST COP
from the orig

Comp. Ex. 71
Co Ex 71
J-MB

No. 46 St. Louis National Stockyards Co. Time
Sold By H L Sparks #10
Shipper
Sold To a/c

8755

Hogs	Dock	Price	Amount	Pen
46				

Date 9-14-5 Scale No. 16 Weighmaster
YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 824725 H

No. 45 St. Louis National Stockyards Co. Time 339
Sold By H L Sparks #10
Shipper
Sold To a/c

750
705

Hogs	Dock	Price	Amount	Pen
6				
6				

Date 9-14-5 Scale No. 16 Weighmaster
YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 824734 H

No. 67 St. Louis National Stockyards Co. Time
Sold By H L Sparks #10
Shipper
Sold To a/c

14715

Hogs	Dock	Price	Amount	Pen
77				

Date 9-15-5 Scale No. 16 Weighmaster
YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No. 824803 H

PY AVAILABLE
inal bound volume

Comp. Ex. 72

C's Ex 72

JMB

No. 95 St. Louis National Stockyards Co. Time 3:30

SOLD BY H L Frank SHIPPER

SOLD TO Frigge a/c #10

	HOGS	DOCK	PRICE	AMOUNT	PEN
750	6		13.75		
705	6		13.50		

DATE 9-14-55 SCALE NO. 16 WEIGHMASTER B

[redacted] STOCK HELD SUBJECT TO FREIGHT AND CHARGES

8247734 H [redacted] 2

No. 86 St. Louis National Stockyards Co. Time

SOLD BY H L Sparks SHIPPER

SOLD TO Frigge a/c #10

	HOGS	DOCK	PRICE	AMOUNT	PEN
8755.	46		16.35		Frigge

DATE 9-14-55 SCALE NO. 16 WEIGHMASTER B

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

8247725 H [redacted]

BEST COP
from the orig

Comp. Ex. 73

C's Ex 73

H. L. Sparks & Co.
National Stockyards Ill.
(St. Clair Co.)

Date: Sept 15, 1955

~~Bought For~~/Sold To Frigge & Hutwelker Co.
New York, N.Y.

		Weight	Dock	Price	Amount	Total
Via B/4	6	750		13.75		103.12
NYC 27255	6	705		13.50		95.17
	77	14715		16.35		2405.90
	46	8755		16.35		1431.44
	135	24,925				4035.63

Charges:	2.00
	15.00 *
Feed	7.60

Total: $ 4,060.23 Amount to be wired to H. L. Sparks & Co., National Stockyards Ill.

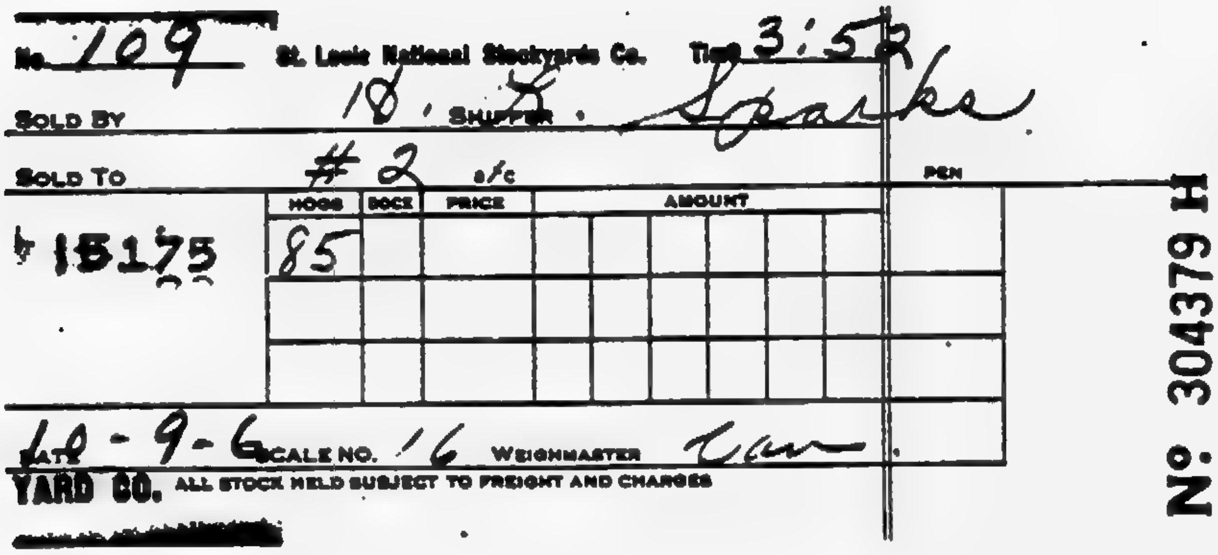
U. S. DEPARTMENT OF AGRICULTURE
Exhibit No. 73 Docket No. 2261
Hearing H. L. Sparks
Offered by Complainant
Date 4/10/57
Reporter Jayes

PY AVAILABLE
inal bound volume

Comp. Ex 74

Co Ex 74

9-7-73



No. 109 St. Louis National Stockyards Co. Time 3:52

SOLD BY H. L. Sparks SHIPPER

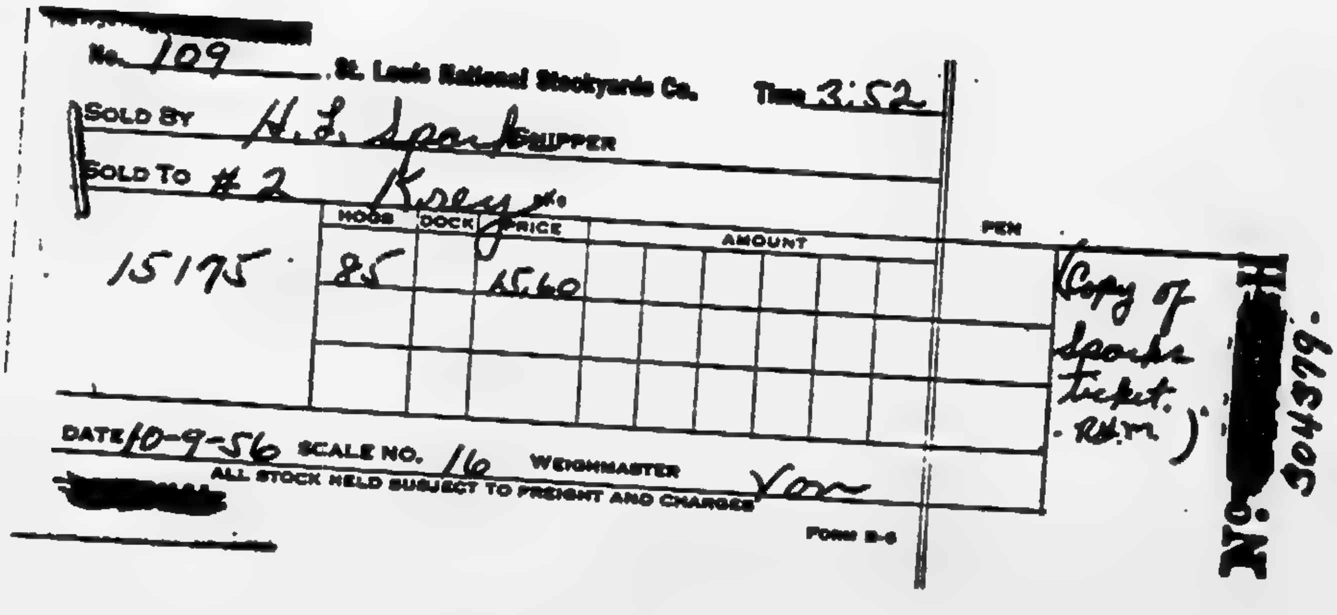
SOLD TO #2 a/c

	HOGS	DOCK	PRICE	AMOUNT	PEN
15175	85				

DATE 10-9-6 SCALE NO. 16 WEIGHMASTER

YARD CO. ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

No 304379 H



No. 109 St. Louis National Stockyards Co. Time 3:52

SOLD BY H. L. Spark SHIPPER

SOLD TO #2 Krey a/c

	HOGS	DOCK	PRICE	AMOUNT	PEN
15175	85		15.60		

DATE 10-9-56 SCALE NO. 16 WEIGHMASTER Von

[redacted] ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

FORM B-6

(Copy of Sparks ticket. R.H.M.)

No [redacted] 304379.

Comp. Ex. 75

C. Ex 75
JMB

H. L. Sparks & Co.
National Stockyards, Ill.
(St. Clair County)

Date October 10, 1956

~~Bought For~~/Sold To Krey

	Hogs	Weight	Dock	Price	Amount	Total
	85	15,175		15.60		2,367.30

Charges:

Total:

U. S. DEPARTMENT OF AGRICULTURE

Exhibit No. 75 Docket No. 2261

Hearing H. L. Sparks

Offered by Complainant

Date 4/10/59

Reporter Jaeger

PY AVAILABLE
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Co Ex 79 10 Co. Ex 79
JMB

SPRINGFIELD STOCK YARDS CO

No. ______ 12-1 1955

Release to H L Sparks & Co

Address Chapin Ill

44 Sows	HOGS	PEN NO.	302
48 Butch	CATTLE	PEN NO.	6A-1B-414
	CALVES	PEN NO.	
	SHEEP	PEN NO.	

RECEIVED ABOVE DESCRIBED STOCK

Bill [illegible]

4576

Return to Stock Yards Office [illegible]
After Property Released

RELEASED BY:

H.C. Harms

92

4520

5-10 PM

Co Ex 80

10M-2-54-22598-Jo.

SPRINGFIELD STOCK YARDS CO.

12 - 1 1955

No.

Release to H. L. Sparks & Co Co Ex 80 JMB

Address Chagrin Fall

75 Sows HOGS	PEN NO. 402 - 304 - 302
CATTLE	PEN NO.
CALVES	PEN NO.
SHEEP	PEN NO.
RECEIVED ABOVE DESCRIBED STOCK	RELEASED BY:
D Obel N277	H.C. Harms

Return to Stock Yards Office Immediately
After Property Released.

72-402-304
3 302

OPY AVAILABLE
riginal bound volume

Respondents' Exhibit 1

Bills for 17 points are all made at Chapin. George Ischer is general manager for Mid-West order buyers.

Each point calls Chapin & tells Mr. Ischer how many hogs has been bought and weight and cost and type each day. Mr. Ischer then tells each point where their hogs are going for that day. H. L. Sparks obtains all orders from East St. Louis office and calls Ischer and instructs him as to what each order is to consist of and Ischer in turn calls the various points and instructs them accordingly. Trucks pick up the hogs at 2 or 3 different points on occasion to make out a load. At other times they get their entire load at one point, Hogs are also shipped by Rail from each point. Each point sends Chapin a daily buy sheet which has a break down according to weight classification and types such as sows, boars, pigs, crips, etc. They also send a sheet which shows each purchase showing sellers name, head, weight, amount and check number used to pay the seller. This sheet also shows daily expenses. All bookkeeping for the 17 points is done at Chapin. Bank a/c is maintained at the National Stockyards National Bank, National City, Illinois. Bushnell has a separate Bank a/c at Bushnell. Farmers & Merchants State Bank at Bushnell. Peoria has a separate bank a/c at National Stockyards National Bank, National City, Illinois.

When sending Bills to the various buyers such as Hunter, Swift Independent, Swift, Trunz, Merkel, Belvedere, etc. The bill shows the number of head, type, weight, Price and Amounts. No scale tickets are sent with the invoices. Mr. Ischer stated that the packers are not
Hunter does not scale tickets Unless requested
/ particularly interested in / scale tickets. / Their interest / is in
cost and yield. The weights shown on bills are sometimes actual reweigh weights and at other times the weights are based on the buy weights and at other times weight is added to buy weights to take care of shrink and at other times weight is deducted from buy weights. The packer has to be satisfied with his cost & yield or naturally he will quit buying from Mid-West. Prices are determined by the daily bids from various packers.

Respondents' Exhibit 1

Hunter's bid is always high enough to take care of the trucking & trucking is prepaid by Chapin.

The above information was related to me by George J. Ischer, Jr., General Manager of Midwest Order Buyers in his office at Chapin, Ill. on the morning of February 1, 1957.

Earl W. Sherman

Respondents' Exhibit 1A

Rs Ex 1A

Rs Ex 1A
JMB

Bills for 17 points are all made at Chapin.
George Ischer is general manager for Mid-West order buyers.
Each point calls Chapin & tells Mr Ischer how many hogs has been bought and weight and cost and type each day.
Mr Ischer then tells each point where their hogs are going for that day.
H. T. Sparks obtains all orders from Natl. St-Louis Office and calls Ischer and instructs them as to what each order is to consist of and Ischer in turn calls the various points and instructs them accordingly. Trucks pick up the hogs at 2 or 3 different points on occasion to make out a load. At other times they get their entire load at one point. Hogs also shipped by Rail from various points [illegible].
Points Each point sends Chapin a daily tally sheet which has a break down according to weight classification and types and sex — sows, Boars, Pigs, cripple etc. [illegible]

BEST COP
from the orig

Respondents' Exhibit 1A

sent a sheet which shows each purchase showing sellers name, head, weight, amount and check number used to pay the seller. This sheet also shows daily expenses. All bookkeeping on the 17 points is done at Chicago. Bank a/c is maintained at the National Stockyards National Bank, National City, Illinois. Bushnell has a separate Bank a/c at Bushnell. Farmers & Merchants State Bank at Bushnell. Peoria has a separate Bank a/c at National Stockyards National Bank, National City, Illinois.

When sending Bills to the various Packers such as Hunter, Swift Indianapolis, Swift [illegible], Merkel, Belvedere, etc. the Bill shows the number of head, type, weight, Price and Amounts & the Scale tickets are sent with the invoices. Mr. Ascher stated that the packers are not

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Respondents' Exhibit 1A

Hunter does want scale tickets

particularly interested in scale tickets unless requested. Their interest is in cost + yield. The weights shown on bills are sometimes actual weights and at other times the weights are based on the buy weights and at other times weight is added to buy weights to take care of shrink and at other times weight is deducted from buy weights. The packer has to be satisfied with his cost + yield or naturally he will quit buying from Mid-West. Prices are determined by the daily bids from various packers. Hunters bid is always high enough to take care of the trucking + trucking is prepaid by Chapin.

The above information was related to me by George J. Sacker Jr. General Manager of Midwest Order Buyer in his office at Chapin, Ill. on the morning of February 1, 1957.

Earl H. Sherman

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Respondents' Exhibit 2

CERTIFIED MAIL

December 17, 1956

Mr. Harry L. Sparks
Harry L. Sparks & Company
Union Stock Yards
Peoria, Illinois

Dear Mr. Sparks:

A representative of this office, M. C. Smith, began an audit on November 19, 1956, of the books and records of your firms at Peoria, Bushnell, and Chapin, Illinois. He is unable to complete this audit, due to your failure to make available, all of your records from country points where you operate as a direct buyer of livestock. At the time he was at your office in Chapin, Illinois on November 19, 1956, he made an informal request by telephone for the use of all your records for the years of 1955 and 1956. Since you refused to make these records available, he is unable to complete the audit.

It is requested, that on December 26, 1956 at Chapin, Illinois, you give Mr. M. C. Smith access, for the purpose of examination and copying, all of your books and records from stockyards, coming under the Packers and Stockyards Act, and all other markets or country points, where you operate as a buyer of livestock.

Your cooperation in the above request will be appreciated.

Very truly yours,

[Initialed:] G.H.H.

G. H. Hopper
District Supervisor
Packers & Stockyards Branch
Livestock Division

CC: D. L. Bowman - Washington, D. C.
J. A. Sands - National Stockyards, Illinois

Respondents' Exhibit 3

J. H. GILBY & COMPANY
ACCOUNTANTS & AUDITORS
105 West Adams Street
Chicago 3

January 14, 1957

Mr. G. H. Hopper
District Supervisor
Packers & Stockyards Branch
Livestock Division
999 Exchange Avenue
Chicago 9, Illinois

Dear Mr. Hopper:

Mr. Harry Sparks has referred your letter of December 17, 1956 to me for reply. The contents of this letter I have already discussed with you in your office. First, please be advised that country points you refer to are a part of the Mid-West Order Buyers of Chapin, Illinois. This concern is not registered with the P & S. We maintain, and you already have agreed with us, that you are not entitled to ask for the production of these records. However, in our discussion you stated you would appreciate it if we would voluntarily show you these records. We presume that if this is done we may benefit by constructive suggestions on our methods of handling this business and such suggestions we are always looking for. Thus this is to advise you that we are willing to make available to Mr. Smith these records to examine in the Chapin office.

This action does not set a precedent, and we still maintain our position as being out of the jurisdiction of the P & S.

Very truly yours,

/s/ J. H. Gilby

JHG/zg

[Jan 22, 1957]

Respondents' Exhibit 4
Page 1 of 10 pages

St. Louis Independent Packing Company
January 31, 1957
256 Lot

		Posted Markets				COUNTRY MARKETS					
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	(A) Resorted
4	570					Ch.	4	570	570	-	
219	45930					Ch	30	6390	6530	140	
						"	100	21205	21530	375	
						"	22	4375	4400	25	
						Col	19	4010	4120	110	
						"	2	340	340	25	
						Med	15	2865	2905	40	
						Da	1	220	220	-	
						"	30	5675	5810	135	
							219	45080	45930	850	
12	3090					Ch	2	510	510	-	
						Col	8	2055	2055	-	
						Da	2	525	525	-	
							12	3090	3090	-	
11 S	3465					Ch	4	1335	1375	40	
						Med	7	2030	2090	60	
							11	3365	3465	100	
						Med	1	470	470		
4 S	2070	Bu	3	1600	1600	Med(A)*	5	2290	2290	-	
						"	-1	-470	-470	-	
						"	-1	400	400	-	
5 S	2220						5	2220	2220	-	
1 S	605					Ch	1	605	605	-	
256	57950		3	1600	1600		253	55400	56350	950	

Respondents' Exhibit 4
Page 2 of 10 pages

St. Louis Independent Packing Company
March 29, 1956

			Sorted Off		Balance to I.P.				
Place	Head	Weight	Head	Reweigh	Head	Buy Wt.	Reweigh	Gain	Remarks
Rushville	239	51025	(A)103	21760	136	29265	29875	610	(A) Weighed Off
Jax	55	12240	(B) 47	10090	8	2150	2170	20	(B) Resorted
Barry	91	17865	(C) 52	9700	39	8145	8355	210	(C) For F-H
Palmyra	90	18860	(D) 79	15810	4	1065	1100	35	(D) For other loads
					7	1985	2000	15	

Rush)	239	51025	Purch.	(213.5)
	103	21760	Reweigh	(211.2)
	136	29265	Bal.	
	136	29875	Reweigh	
		610	Gain	

If on 136 - 4.5 pr. hd.
If on 239 - 2.5 pr. hd.

Jax)	55	12240	Purch.
	57	10090	Reweigh
	8	2150	Bal.
	8	2170	Reweigh
		20	Gain

If on 8 - 2.5 pr. hd.
If on 55 - .4 pr. hd.

Barry)	91	17865	Purch.
	52	9720	Reweigh
	39	8145	Bal.
	39	8355	Reweigh
		210	Gain

If on 39 - 5.3 pr. hd.
If on 91 - 2.3 pr. hd.

Palmyra)	90	18860	Purch.
	79	15810	Reweigh
	11	3050	Bal.
	4	1100	Reweigh
	7	2000	Reweigh
	11	3100	Total R.W.
		50	Gain

If on 11 - 4.5 pr. hd.
If on 90 - .5 pr. hd.

Respondents' Exhibit 4
Page 3 of 10 pages

St. Louis Independent Packing Company
March 29, 1956
551 Lot

(A) Sorted out heavies
(B) Fair quality

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(171)	9	1545					Bo	4	640	665	25	
							Go	5	880	880	-0-	
								9	1520	1545	25	
(219)	311	68285					Dec	1	175	175	-	
							Ru	136	29265	29875	610	239-51025-610
							Ast	45	10090	10400	310	
							"	12	2215	2300	85	
							M.St.	26	5805	5940	135	
							Dec	20	4360	4460	100	
							"	11	2190	2300	110	
							Jax	1	235	235	-	
							"	1	200	200	-	
							Ba	39	8145	8355	210	91-17865/210
							Go	46	10300	10475	175	
							Go(A)*	-27	-6430	-6430	-	
								311	66550	68285	1735	
(239)	58	13870					Ch	11	2635	2700	65	
							MS	4	960	960	-	
							Jax	13	3135	3135	-	
							Go	27	6430	6430	-	
							Dec(B)*	3	645	645	-	
								58	13805	13870	65	
(255)	11	2805					MtS	11	2805	2805	-	
(267)	33	8825					MtS	6	1615	1615	-	
							Dec	2	525	525	-	
							Jax	8	2150	2170	20	55-12240- 20
							Go	13	3470	3415	-55	
							Pa	4	1065	1100	35	90-18860-35 X
								33	8825	8825	-	

Respondents' Exhibit 4
Page 4 of 10 pages

St. Louis Independent Packing Company
551 Lot (Cont'd.)

(A) Sorted out heavies
(B) Fair quality

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weights	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(276)	5	1380					Jax	5	1380	1380	-	
(297)	20	5950					Ch	1	290	290	-	
							Ast	3	870	900	30	
							MS	3	860	860	-	
							Dec	2	580	600	20	
							Pa	7	1985	2000	15	90-18860-15X
							Jax	4	1300	1300	-	
								20	5885	5950	65	
(346)	9	3120	Sp	4	1265	1265	Ast	1	325	340	15	
							Dec	4	1445	1515	70	
								5	1770	1855	85	

Respondents' Exhibit 4
Page 5 of 10 pages

St. Louis Independent Packing Company
(Sows)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(296)	20S	5925					Ast	2	565	575	10
							Ca	1	275	275	-
							MtS	3	890	900	10
							Da	1	280	280	-
							Pa	11	3215	3265	50
							MtS	2	645	630	-15
								20	5870	5925	55
(312)	8S	2500					Go	2	600	640	40
							Pa	6	1860	1860	-
								8	2460	2500	40
(347)	11S	3825	Sp	4	1335	1335	Bo	1	335	335	-
							Med	2	695	695	-
							Pa	2	730	730	-
							Qy	2	730	730	-
								7	2490	2490	-
(395)	20S	7895	Sp	10	3925	3925	Ch	2	765	750	-15
							Ast	1	380	380	-
							Bo	1	390	390	-
							MtS	1	400	400	-
							Jax	5	2035	2050	15
								10	3970	3970	-
(444)	19S	8450					Pa	1	420	420	-
							Go	1	425	425	-
							Bo	2	845	845	-
							"	5	2285	2300	15
							Ca	1	415	415	-
							Med	1	450	450	-
							Da	1	450	450	-
							Qy	7	3160	3145	-15
								19	8450	8450	-

Respondents' Exhibit 4
Page 6 of 10 pages

St. Louis Independent Packing Company
(Sows) (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(493)	8S	3945					Ca	2	990	1000	10
							Da	1	500	500	-
							Ba	3	1490	1500	10
							Go	2	965	945	-20
								8	3945	3945	-
(546)	5S	2730					Ch	2	1100	1100	-
							Jax	1	520	520	-
							Qy	1	500	500	-
							Ca	1	610	610	-
								5	2730	2730	-
(606)	3S	1820					Ba	1	655	655	-
							Qy	2	1165	1165	-
								3	1830	1820	-
	1 Stg	640					MtS	1	640	640	-
	551	143510		18	6525	6525		533	134915	136985	2070

Respondents' Exhibit 4
Page 7 of 10 pages

St. Louis Independent Packing Company
February 11, 1956
130 Lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(269)	11	2960					MtS	11	2910	2960	50
(296)	9	2665					Qy	6	1790	1790	-
							Da	2	580	580	-
							MtS	1	295	295	-
								9	2665	2665	-
(336)	9S	3025					Ch	1	350	350	-
							Qy	3	980	1060	80
							"	1	300	320	20
							Ca	1	240	240	-
							MtS	2	700	730	30
							Bo	1	305	325	20
								9	2875	3025	150
(373)	24S2	8970					Dec	2	760	760	-
							Ch	8	3025	3050	-25
							Qy	4	1495	1475	-20
							MtS	5	1870	1825	-45
							Bo	5	1915	1860	-55
								24	9065	8970	-95
(445)	34S	15155	Sp	13	5615	5615					
(491)	23S	11305	Sp	12	5730	5730	Ch	1	420	450	30
							Jax	3	1265	1350	85
							Ca	7	3245	3425	180
							Bo	1	430	440	10
							Qy	9	3635	3875	240
								21	8995	9540	545
(546)	13S	7105					Ch	4	1900	2030	130
							Jax	2	960	1025	65
							MtS	1	495	510	15
							Bu	2	965	1030	65
							Da	2	925	980	55
								11	5245	5575	330

(A) Sorted to heavier lot. Friday Loads went Saturday

Respondents' Exhibit 4
Page 8 of 10 pages

St. Louis Independent Packing Company
130 Lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(606)	75	4245	Sp	5	2940	2940	Dec	1	525	540	15
							"	1	585	570	-15
							Ch	3	1610	1650	40
							Qy	1	550	550	-
							Go	5	2660	2760	100
							"(A)*	-1	-660	-660	-
							Da	3	1660	1695	35
								13	6930	7105	175
							Go	1	660	660	-
							Da	1	620	645	25
								2	1280	1305	25
	130	55430		30	14285	14285		100	39965	41145	1180

(A) Sorted to heavier lot. Friday Loads went Saturday

Respondents' Exhibit 4
Page 9 of 10 pages

St. Louis Independent Packing Company
February 3, 1956

Place	Head	Weight	Sort Off		Balance to Independent			Gain
			Head (A) *	Buy - Weight	Head	Buy - Weight	Reweigh	
Quincy	156	34,460	(A) 135	27,970	23	6,490	6,750	260

156	34,460		
133	27,970		
23	6,490		
23	6,780		
	290	gain on 23	12.6
		on 156	1.8

Respondents' Exhibit 4
Page 10 of 10 pages

St. Louis Independent Packing Company
February 3, 1956
135 Lot

(A) 30 gain incorrectly entered as 300# in preparing original invoice

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(292)	27	7900					Ba	4	1140	1150	10	
							Qy	23	6490	6750	260	156-34460-260
								27	7630	7900	270	
(372)	5	1860					Qy	5	1775	1860	85	
(328)	18S	5915					Ast	4	1170	1185	15	
							Gr	14	4565	4730	165	
								18	5735	5915	180	
(375)	9S	3375					Ast	5	1900	1900	-	
							"	1	365	365	-	
							Ba2	3	1110	1110	-	
								9	3375	3375	-	
(413)	23S	9510	Bu	16	6300	6300	Qy	4	1635	1935	300 (A)*	
							Ru	2	845	860	15	
							Gr	1	400	400	15	
								7	2880	3210	330	
(483)	25S	12080					Ba	4	1925	1980	55	
							Jax	21	9705	10100	395	
								25	11630	12080	450	
(540)	16S	8650					Ba	5	2710	2730	20	
							Jax	5	2690	2760	70	
							Ru	6	3090	3160	70	
								16	8490	8650	160	
(629)	6S	3775	Bu	2	1210	1210	Jax	3	1875	1925	50	
							Ru	1	630	640	10	
								4	2505	2565	60	
	6 Stg	2235	Bu	1	460	460	Qy	5	1760	1775	15	
	135	55300		19	7970	7970		116	45780	47330	1550	

Respondents' Exhibit 5
Page 1 of 7 pages

Hunter Packing Company
September 6, 1956

			SORTED OFF		BALANCE TO HUNTER				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Mt.Sterling	417	90100	(A)163	34285	254	55815	56445	630	(A) Weighed off for other loads.
Media	119	25550	(B) 29	5560	90	19990	20605	615	(B) HO Rush.
Quincy	273	62395	(C)150	34125	123	28270	28740	470	(C) H.O.

Mt.S.)

417	90100	Purch.
163	34285	Reweigh
254	55815	Balance
254	56445	Reweigh
	630	Gain

If on 417 - 1.5 pr. hd.
If on 254 - 2.4 pr. hd.

Media)

119	25550	Purch.
29	5560	Reweigh
90	19990	Balance
90	20605	Reweigh
	615	Gain

If on 119 - 5.1 pr. hd.
If on 90 - 6.8 pr. hd.

Quincy)

273	62395	Purch.
150	34125	Reweigh
123	28270	Balance
123	28740	Reweigh
	470	Gain

If on 273 - 1.7 pr. hd.
If on 123 - 3.8 pr. hd.

Respondents' Exhibit 5
Page 2 of 7 pages

Hunter Packing Company
September 6, 1956
869 Lot

		Posted Markets				Country Markets					
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
869	196670	Sp	177	40780	40780	Ru	130	28833	29460	625	
						MtS	254	55015	56445	630	417-90100-630
						Qy	123	28270	28740	470	273-62359-470
						Go	95	20410	20640	230	
						Med	90	19990	20605	615	119-25550-615
							692	153320	55890	2570	

Respondents' Exhibit 5
Page 3 of 7 pages

Hunter Packing Company
August 29, 1956
747 Lot

		Posted Markets				Country Markets				
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
747	165980	Peo	125	27710	27710	Ru	130	27705	27925	220
		"	124	28300	28300	"	37	7610	7700	90
			249	56010	56010	Col	91	20570	20635	65
						MtS	125	27990	28200	210
						Med	65	14495	14750	255
						MtS	50	10725	10760	35
							498	109095	109970	875

Respondents' Exhibit 5
Page 4 of 7 pages

Hunter Packing Company
August 22, 1956
648 Lot

		Posted Markets				Country Markets				
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
36	6900					Dec	36	6900	6900	-
600	133520	Peo	109	24280	24280	Jax	13	2750	2750	-
						Dec	98	20540	20700	160
						"	-36	-6900	-6900	-
						Ba	15	3175	3150	-25
						Ch	31	7115	7200	85
						Col	28	6335	6300	-35
						Med	12	2815	2850	35
						"	1	195	195	-
						Ru	129	28060	28415	355
						"	37	7810	7800	-10
						Qy	96	20730	21000	270
						Pa	65	15170	15400	230
						"	2	380	380	-
							491	108175	109240	1065
12	3535					Dec	2	575	575	-
						Ch	1	285	285	-
						Med	2	570	570	-
						"	4	1215	1215	-
						Pal	3	890	890	-
							12	3535	3535	-
648	143955		109	24280	24280		539	118610	119675	1065

Respondents' Exhibit 5
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Hunter Packing Company
August 13, 1956
662 Lot

		Posted Markets				Country Markets				
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
28	5060	Sp	28	5035	5060					
59	11260	Sp	59	11260	11260					
575	123430	Sp	194	40100	40100	Jax	17.	3805	3850	45
						Ast	60	13430	13600	170
						Ru	19	4010	4090	80
						Gr	31	6840	6900	60
						MtS	128	27520	27800	280
						Da	15	3135	3100	-35
						Med	93	19720	20030	310
						Ch	18	3695	3960	65
							381	82355	83330	975
662	193750		281	56395	56420 (*) 25 Gain		381	82355	83330	975

(*) Hogs hauled by G. Hunter Trucking loadking late-got hogs mixed with some others at Springfield & had to weigh back to check if got proper hogs. This happened at 9:00 A.M.

Respondents' Exhibit 5
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Hunter Packing Company
March 7, 1956

			SORTED OFF		BALANCE TO HUNTER				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Quincy	101	20835	(A) 48	8970	53	11865	12005	140	(A) Off to car
Golden	205	45600	(B) 108	25225	97	20375	20770	395	(B) For other Loads
Decatur	254	53420	(C) 122	25625	132	27795	28255	460	(C) Sorted for other lds.

Quincy)			
	101	20835	Purch.
	48	8970	Reweigh
	53	11865	Balance
	53	12005	Reweigh
		140	Gain

If on 101 - 1.3 pr. hd.
If on 53 - 2.6 pr. hd.

Golden)			
	205	45600	Purch.
	108	25225	Reweigh
	97	20375	Balance
	97	20770	Reweigh
		395	Gain

If on 205 - 1.9 pr. hd.
If on 97 - 4.0 pr. hd.

Decatur)			
	254	53420	Purch.
	122	25625	Reweigh
	132	27795	Balance
	132	28255	Reweigh
		460	Gain

If on 254 - 1.8 pr. hd.
If on 132 - 3.4 pr. hd.

Respondents' Exhibit 5
Page 7 of 7 pages

Hunter Packing Company
March 7, 1956
639 Lot

							Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(212)	545	115575	Bu	134	26570	26570	Ba	23	4720	4850	130	
							Med	26	5580	5750	170	
							Qy	53	11865	12005	140	-101-20835-140
							Bo	40	8640	8850	210	
							Ca	14	3190	3230	40	
							"	5	1080	1080	-	
							"	9	1705	1800	95	
							Go	97	20375	20770	395	-205-45600-395
							"	11	2053	2200	165	
							"	1	215	215	-	
							Dec	132	27795	28255	460	254-53420-460
								411	87200	89005	1805	
(231)	68	15765					Ba	36	8225	8225	-	
							Bu	21	5040	5040	-	
							Med	11	2500	2500	-	
								68	15765	15765	-	
							Ba	5	1365	1365	-	
							Ch	21	5245	5245	-	
								26	6610	6610	-	
(254)	26	6610										
	639	137950		134	26570	26570		505	109575	111380	1805	

Respondents' Exhibit 6
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Kingan & Company
December 21, 1955

Place	Head	Weight	SORTED OFF		BALANCE TO KINGAN			Gain	Remarks
			Head	Reweigh	Head	Balance	Reweigh		
Bowen	34	8220	-	-	10	2060	2060		(A) Graded Out
					(A) 24	6160	6240	80	
Bowen	107	30200	(B) 75	21430	32	8770	8985	215	(B) For other loads
Carthage	59	13890	(C) 29	7135	30	6755	6830	75	(C) For other Loads
Palmyra	252	56995	(D)137	27825	115	29170	29865	695	(D) For other Loads

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Bowen) 141 - 38420 Purch.
75 - 21430 Reweigh
66 - 16990 Balance
66 - 17285 Reweigh
295 Gain

If on 141 - 2.0 pr. hd.
If on 66 - 4.4 pr. hd.

Carthage) 59 - 13890 Purch.
29 - 7135 Reweigh
30 - 6755 Balance
30 - 6830 Reweigh
75 Gain

If on 59 - 1.2 pr. hd.
If on 30 - 2.5 pr. hd.

Palmyra) 252 - 56955 Purch.
137 - 27825 Reweigh
115 - 29170 Balance
115 - 29865 Reweigh
695 Gain

If on 252 - 2.7 pr. hd.
If on 115 - 6.0 pr. hd.

Respondents' Exhibit 6
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Kingan & Company
December 21, 1955
236 Lot

(Y) Sorted out to heavy pen
(Z) Sorted out to heavy pen

	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(206)	10	2060					Bo	10	2060	2060	-	
(247)	122	30225					Bo	24	6160	6240	80	34-8220-80
							Ca	30	6755	6830	75	59-13890-75
							Dec	25	6230	6320	90	
							Pa	115	29170	29865	695	250-56995-695
							Pa(Y)*	-14	-4030	-4030	-	
							" (Z)*	-58	-15000	-15000	-	
								122	29285	30225	940	
(266)	90	23985					Bo	32	8730	8985	255	107-30200-255
							Pa	58	15000	15000	-	
								90	23730	23985	255	
(287)	14	4030					Pa	14	4030	4030	-	
	236	60300						236	59105	60300	1195	

Respondents' Exhibit 6
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Kingan & Company
June 12, 1956

			SORTED OFF		BALANCE TO KINGAN				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Rushville	106	24815	(A) 71	15345	24	6290	6350	60	(A) Weighed off
					11	3180	3180	-	
Colmer	76	14395	(B) 32	5430	44	8965	9110	145	(B) H. O.
Mt.Sterling	260	66715	(C)206	52920	34	7310	7400	90	(C) For other loads
					20	6485	6485		

Rushville) 106 - 24815 Purch.
71 - 15345 Reweigh
35 9470

If on 106 - .56 pr. hd.
If on 24 - 2.5 pr. hd.

Colmar) 76 - 14395 Purch.
32 - 5430 Reweigh
44 - 8965 Balance
44 - 9110 Reweigh
145 Gain

If on 76 - 1.9 pr. hd.
If on 44 - 3.2 pr. hd.

Mt. Sterling) 260 - 66715 Purch.
206 - 52920 Reweigh
54 13795 Balance
34 7400 Reweigh
20 6485 Reweigh
90 Gain

If on 260 - .34 pr. hd.
If on 34 - 2.6 pr. hd.

Respondents' Exhibit 6
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Kingan & Company
June 12, 1956
734 Lot

(A) sorted over
(B) sorted over
(C) Premium
Quality #1

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(217)	433	94100	Sp	24	5170	5170	Dec	9	1840	1840	20	
							Dec	6	1230	1250	20	
							"	11	2565	2600	35	
							"	16	3010	3050	40	
							Col	44	8965	9110	145	76-14355-145
							Bg	24	5195	5320	125	
							"	3	530	530	-	
							Ch	37	8060	8260	200	
							"	3	595	595	-	
							Ba	34	7500	7600	100	
							"(A)*	-16	-3700	-3700	-	
							Pal	75	16625	16935	310	
							"(B)*	-23	-5670	-5670	-	
							Ma	38	8140	8250	110	
							"	4	945	950	5	
							"	5	900	900	-	
							Med	40	8530	8620	90	
							Ru(C)*	24	6290	6350	60	106-24815-60X
							MtS	34	7310	7400	90	206-66715-90*
							Ch	33	7170	7220	50	
							Pa	8	1460	1500	40	
								409	87490	88930	1440	
(235)	48	11305					Ba	16	3700	3700	-	
							Med	24	5535	5605	70	
							"	8	2010	2000	-10	
								48	11245	11305	60	

Respondents' Exhibit 6
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Kingan & Company
734 Lot (Cont'd.)

(A) sorted over
(B) sorted over
(C) Premium
Quality #1

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(253)	37	9375	Sp	1	250	250	Pal	23	5670	5670	-	
			"	13	3455	3455						
				14	3705	3705						
(295)	23	6800					Ru	11	3180	3180	-	106-24815-X
							Pa	4	1150	1150	-	
							Med	7	2195	2195	0	
							Jax	1	275	275	-	
								23	6800	6800	-	
(324)	20	6485					MtS	20	6485	6485	-	260-66715- *

Respondents' Exhibit 6
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Kingan & Company
June 12, 1956
734 Lot

(X) Piggy-lost pigs during day
(Y) Resorted while reweighing

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(291)	24S	7005					Jax	2	595	595	-
							Col(X)*	16	4875	4595	-280
							Bg	4	1150	1190	40
							Ma	1	305	305	-
							Med	1	320	320	-
								24	7245	7005	-240
(326)	26S	8490	Sp	16	5360	5360	Dec	14	5390	5350	-40
							Dec(Y)*	-10	-4150	-4150	-
							Pa	6	2040	1930	-110
								10	3280	3130	-150
(388)	50S	19445	Sp	13	4775	4775	Dec	10	4150	4150	-
							Ru	1	365	365	-
							Col	6	2340	2300	-40
							Qy	6	2470	2400	-70
							Ba	4	1605	1605	-
							Pa	1	400	400	-
							"	4	1475	1500	25
							Ma	1	375	375	-
							MtS	4	1600	1575	-25
								37	14780	14670	-110
(439)	35S	15375	Sp	5	2255	2255	Jax	3	1285	1320	35
							Pa	1	455	455	15
							Ma	1	440	440	-
							Med	15	6190	6320	130
							"	3	1370	1380	10
							MtS	7	3140	3190	50
								30	12880	13120	240

Respondents' Exhibit 6
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Kingan & Company
June 12, 1956
734 Lot (Cont'd.)

(X) Piggy-lost pigs during day
(Y) Resorted while reweighing

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(490)	21S	10295	Sp	7	3380	3380	Jax	3	1440	1470	30
							Dec	1	485	500	15
							Col	1	495	500	5
							Pa	3	1465	1500	35
							Med	6	3235	3235	-
							"	-3	-1810	-1810	-
							MtS	1	490	490	-
							Dec	2	1030	1030	-
								14	6830	6915	85
(567)	17S	9650	Sp	9	4720	4720	Jax	2	1270	1340	70
							MtS	2	1135	1190	55
							Ru	1	540	570	30
							Med	3	1810	1830	20
								8	4755	4930	175
	734	198325		88	29365	29365		646	167460	168960	1500

Respondents' Exhibit 6
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Kingan & Company
July 21, 1956

Place	Head	Weight	SORT OFF		BALANCE TO KINGAN				Remarks
			Head	Reweigh	Head	Weight Bought	Reweigh	Gain	
Rushville	182	37935	(A) 52	10320	130	27615	28155	540	(A) Weighed off & held over.

If on 130 hd. - 4.15 pr. hd.
If on 182 hd. - 2.9 pr. hd.

Respondents' Exhibit 6
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Kingan & Company
July 21, 1956
565 Lot

Light sows all to Kingan sorted out at actual wt. All heavy sows elsewhere.

		Posted Markets				Country Markets					
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
443	98680	Bu	7	1495	1495	Jax	60	12600	12940	340	
						Ba	6	1150	1150	-	
						Go	32	6825	6800	-25	
						"	5	950	950	-	
						Go	118	28035	28365	330	
						Ru	130	27615	28155	540	182-37935-540
						Dec	44	9915	9900	-15	
						Col	41	9095	8925	-170	
							436	96185	97185	1000	
3	875					Jax	3	875	875		
119S	37430	Bu	22	7440	7440	Go	11	3940	3940	-	
						Da	30	9080	9080		
						Qy	1	350	350	-	
						"	3	865	865	-	
						MtS	22	6460	6460	-	
						Gr	13	3945	3945	-	
						Pal	10	3045	3045	-	
						Jax	6	1835	1835	-	
						"	1	470	470	-	
							97	29990	29990	-	
565	136985		29	8935	8935		536	127050	128050	1000	

Respondents' Exhibit 6
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Kingan & Company
September 15, 1956
994 Lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(222)	694	154070	Bu	30	7685	7685	Ba	33	7205	7500	295
							Dec	74	15805	16000	195
							Ba	60	15060	15260	200
							Ch	13	2585	2585	-
							Col	60	13180	13350	170
							Bg	42	9060	9040	-20
							Qy	28	5750	5800	50
							Mac	73	15720	16000	280
							Pa	63	13520	13600	80
							Med	108	23170	23460	290
							Gr	47	10395	10475	80
							Col	63	13445	13315	-130
								664	144895	146385	1490
(227)	300	68220	Bu	25	5310	5310	Col	61	13955	14050	95
							Jax	129	28275	28550	275
							Gr	60	14440	14510	70
							Da	25	5775	5800	25
								275	62445	62910	465
	994	222290		55	12995	12995		939	207340	209295	1955

Respondents' Exhibit 7
Page 1 of 1 page

Oscar Mayer
June 22, 1956

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(216)	23	4985					Colmar	9	1820	1820	-
							Colmar	14	3165	3165	-
								23	4985	4985	
(258)	39	10065					DaCity	7	1795	1795	-
							Rush.	9	2280	2280	-
							Astoria	23	5990	5990	-
								39	10065	10065	
(287)	5	1435					Chapin	1	295	295	-
							Astoria	2	570	570	-
							DaCity	2	570	570	-
								5	1435	1435	
(321)	35 S	11245					Chapin	19	6100	6100	-
							Astoria	2	625	625	-
							Colmar	7	2250	2250	-
							DaCity	7	2270	2270	-
								35	11245	11245	
(390)	23 S	8985					Rush.(A)	38	16345	16805	460
							Rush.	- 16	- 7165	- 7165	-
							Rush.	- 7	- 3690	- 3690	-
							Chapin	1	365	365	-
							Colmar	2	795	795	-
							DaCity	5	1875	1875	-
								23	8525	8985	460
(445)	26 S	11590	Bush.	9	4010	4010	Rush.	16	7165	7165	-
							Astoria	1	415	415	-
								17	7580	7580	
(483)	6 S	2900	Bush.	4	1950	1950	Rush.	1	480	480	-
							Ast.	1	470	470	-
								2	950	950	
(535)	8 S	4285	Bush.	1	595	595	Rush.	7	3690	3690	-
	165	55490		14	6555	6555		151	48475	48935	460

(A) Resorted - heavies reweighed off.

Respondents' Exhibit 8
Page 1 of 1 page

Val Decker Packing Company
Dec. 14, 1955

404 Lot.

		Posted Markets								
Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
307	65930					Media	17	2815	2900	85
						"	11	2110	2100	- 10
						"	37	7655	7645	- 10
						"	66	15185	15500	315
						Carth.	8	1735	1775	40
						"	26	5030	5000	- 30
						Golden	66	14180	14510	330
						(Astoria	56	11765	12000	235
						(Rushville	20	4455	4500	45
							307	64930	65930	1000
97	24410					(Astoria	36	8985	8900	- 85
						(Astoria	16	4660	4665	5
						Media	3	755	755	-
						Carthage	14	3180	3200	20
						Carthage	28	6830	6890	60
							97	24410	24410	-
404	90340						404	89340	90340	1000

Respondents' Exhibit 9
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John Morrell & Company
June 4, 1956
332 lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(277)	35	9695					Chapin	15	4145	4200	55
							Chapin	1	295	295	-
							Quincy	4	1135	1150	15
							Rush.	5	1420	1420	-
							Astoria	10	2575	2630	55
								35	9570	9695	125
(280)	15 S	4200	Bush.	7	1815	1815	Palmyra	4	1200	1200	-
							Barry	2	590	600	10
							Media	1	265	265	-
							Griggs.	1	320	320	-
								8	2375	2385	10
(322)	65 S	20970	Spr.	14	4360	4360	Mt.St.(C)	3	805	800	- 5
			Bu.	19	6080	6080	Chapin	7	2285	2400	115
				33	10440	10440	Jax	12	3715	4050	335
							Quincy	8	2590	2655	65
							Palmyra	2	625	625	-
								32	10020	10530	510
(351)	13 S	4570					Bowen	3	1010	1050	40
							Quincy	1	325	325	-
							Mt.St.	5	1690	1770	80
							Golden	4	1365	1425	60
								13	4390	4570	180
(392)	44 S	17265	Spr.	4	1570	1570	Griggs.	4	1480	1500	20
							Chapin	1	360	360	-
							Jax	1	355	355	-
							Chapin	3	1065	1065	-
							Chapin	1	375	375	-
							Mt.Ster.	2	845	860	15
							Barry	12	4940	4905	-35
							Jax	2	785	750	-35
							Media	8	3170	3070	-100
							Quincy	1	395	395	-
							Palmyra	9	3320	3260	-60
							Palmyra(A)	-4	-1200	-1200	-
								40	15890	15695	-195

Respondents' Exhibit 9
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John Morrell & Company
332 lot (continued)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Places of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(439)	62 S	27260	Spr.	13	5655	5655	Chapin	9	3965	3985	20
							Chapin	- 1	- 360	- 360	-
							Griggs.	12	5230	5300	70
							Jax	15	6520	6600	80
							Media	3	1230	1230	-
							Golden	6	2670	2700	30
							Palmyra	5	2135	2150	15
								49	21390	21605	215
(493)	54 S	26635	Spr.	2	960	960	Mt.Ster.	5	2635	2660	25
			Bush.	9	4495	4495	Astoria	20	9595	9855	260
				11	5455	5455	Chapin	15	7695	7855	160
							Chapin(B)	-12	-6530	-6530	-
							Rush.	1	505	505	-
							Griggs.	2	945	900	-45
							Jax	6	2900	2920	20
							DaCity	1	520	520	-
							Palmyra	1	485	485	-
							Palmyra	4	2010	2010	-
								43	20760	21180	420
(532)	24 S	12780	Spr.	6	3050	3050	Chapin	12	6530	6530	-
			Bush.	6	3200	3200					
				12	6250	6250					
(586)	17 S	9965					Chapin	5	3080	3100	20
							Griggs.	1	570	570	-
							Jax	9	5105	5155	50
							Quincy	2	1140	1140	-
								17	9895	9965	70
(675)	3 S	2025	Bush.	3 S	2025	2025					
	332	135365		83	33210	33210		249	100820	102155	1335

(A) Sorted out of uneven bunch.
(B) Sorted off heavies
(C) Poor Quality - lower bracket

Respondents' Exhibit 9
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John Morrell & Company
March 20, 1956
600 Lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(218)	437	95525	Spr.	212	45480	45480	Jax	56	12055	12300	245
							Astoria	55	11890	12150	260
							Rush.	23	4910	5020	110
							Rush.	3	710	710	-
							Mt. Ster.	94	21000	21240	240
							Mt.St.(A)	- 6	-1375	-1375	-
								225	49190	50045	855
(229)	41	9405					Golden	35	7985	8030	45
							Mt.St.	6	1375	1375	-
								41	9360	9405	45
(256)	37	9505					Quincy	2	500	500	-
							Quincy	7	1780	1800	20
							Astoria	18	4640	4700	60
							Rush.	10	2485	2505	20
								37	9405	9505	100
(277)	23	6385					Palmyra	1	285	285	-
							Rush.	1	275	275	-
							Golden	19	5200	5250	50
							Mt.St.	2	575	575	-
								23	6335	6385	50
(315)	8	2525					Palmyra	1	310	310	-
							Golden	6	1915	1915	-
							Quincy	1	300	300	-
								8	2525	2525	
(319)	20S	6385	Spr.	4	1225	1225	Quincy	10	3205	3360	155
							Palmyra	3	875	900	25
							Astoria	3	880	900	20
								16	4960	5160	200
(391)	7S	2740					Golden	2	735	735	-
							Quincy	1	370	370	-
							Astoria	2	820	820	-
							Palmyra	2	815	815	-
								7	2740	2740	

Respondents' Exhibit 9
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John Morrell & Company
600 lot (continued)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(429)	12 S	5150					Quincy	2	870	900	30
							Golden	10	4160	4250	90
								12	5030	5150	120
(480)	13 S	6245					Quincy	1	510	510	-
							Palmyra	5	2310	2310	-
							Rush.	3	1450	1450	-
							Rush.	1	525	525	-
							Golden	3	1450	1450	-
								13	6245	6245	
(600)	2 S	1205					Golden	2	1205	1205	-
	600	145070		216	46705	46705		384	96995	98365	1370

(A) Rough Quality

Respondents' Exhibit 9
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John Morrell & Company
March 16, 1956

Place	Head	Weight	Sorted Off Head	Sorted Off Reweigh	Balance to Morrell Head	Balance to Morrell Balance	Balance to Morrell Reweigh	Gain	Remarks
Barry	174	40145	(A) 129	28550	14	3125	3235	110	(A) Sorted off for later load.
					31	8470	8630		

174- 40145 Purch
129- 28550 Reweigh
45- 11595 Balance

14 - 3235 Reweigh
31 - 8470 Reweigh
45 11865
270 Gain

If on 174 - 1.5 pr. hd.
If on 45 - 6.0 pr. hd.

Respondents' Exhibit 9
Page 6 of 7 pages

John Morrell & Company
March 16, 1956

326 Lot			Posted Markets				Country Points				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(229)	76	17445					Mt.St.	60	13390	13760	370
							Mt.St.	2	450	450	-
							Barry	14	3125	3235	110
								76	16965	17445	480
(238)	11	2625					Quincy	6	1420	1450	30
							Bowen	5	1175	1175	-
								11	2595	2625	30
(260)	9	2345					Quincy	9	2345	2345	-
(278)	77	21455					Mt.Ster.	24	6700	6760	60
							Chapin	2	540	540	-
							Bowen	20	5445	5525	80
							Barry	31	8470	8630	160
								77	21155	21455	300
(289)	22	6370					Chapin	8	2280	2300	20
							Bowen	14	4090	4070	-20
								22	6370	6370	-
(295)	21S	6205	Bush.	8	2315	2315	Mt.St.	1	270	270	-
							Mt.St.	5	1470	1540	70
							Barry	7	1980	2080	100
								13	3720	3890	170
(338)	20S	6765	Spr.	7	2325	2325	Mt.St.	1	350	350	-
							Chapin	1	345	360	15
							Quincy	7	2245	2300	55
							Bowen	1	335	335	-
							Mt.St.	2	760	780	20
							Bowen	1	315	315	-
								13	4350	4440	90
(393)	17S	6695	Bush.	7	2765	2765	Chapin	2	765	800	35
							Quincy	2	805	820	15
							Bowen	2	755	800	45
							Bowen	1	410	430	20
							Mt.St.	2	650	690	40
							Chapin	1	390	390	-
								10	3775	3930	155

Respondents' Exhibit 9
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John Morrell & Company
326 Lot (continued)

			Posted Markets				Country Points				
	Head	Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Place of Orig.	Head	Buy Weight	Reway Weight	Gain (-loss)
(432)	34 S	14705	Spr.	19	7805	7805	Mt.St.	2	865	950	85
			Bush.	8	3530	3530	Chapin	3	1270	1400	130
				27	11335	11335	Chapin(X)	- 1	- 390	- 390	-
							Chapin	1	425	460	35
							Barry	2	875	950	75
								7	3045	3370	325
(492)	14 S	6895	Bush.	7	3460	3460	Mt.St.	1	485	500	15
							Mt.St.	1	490	490	-
							Chapin	2	965	1000	35
							Bowen	1	500	520	20
							Barry	4	1800	1800	-
							Barry (Y)	- 2	- 875	- 875	-
								7	3365	3435	70
(528)	19 S	10050	Spr.	12	6220	6220	Mt.St.	1	525	540	15
			Bush.	1	550	550	Chapin	1	525	540	15
				13	6770	6770	Chapin	1	550	550	-
							Quincy	1	530	550	20
							Barry	2	1085	1100	15
								6	3220	3280	65
(588)	6 S	3530	Bush.	3	1800	1800	Bowen	2	1135	1150	15
							Barry	3	1645	1665	20
							Barry (Z)	- 2	-1085	-1085	-
								3	1695	1730	35
	326	105085		72	30770	30770		254	73600	74315	1715

(X) Sorted out for size
(Y) Sorted out for quality
(Z) Sorted out for size

Respondents' Exhibit 10
Page 1 of 4 pages

HEIL PACKING COMPANY
SEPTEMBER 7, 1956

			Sort Off		Balance to Heil				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Chapin	118	25350	(A) 51	10235	67	15115	15365	250	(A) Off for other loads.
Quincy	290	64715	(B) 164	35845	126	28870	29195	325	(B) Off for cars

Chapin)
118 - 25350 Purch
51 - 10235 Reweigh
67 - 15115 Balance
67 - 15365 Reweigh
250 Gain

if on 118 - 2.11 pr. hd.
if on 67 - 3.7 pr. hd.

Quincy)
290 - 64715 Purch
164 - 35845 Reweigh
126 - 28870 Balance
126 - 29195 Reweigh
325 Gain

if on 290 - 1.1 pr. hd.
if on 126 - 2.5 pr. hd.

Respondents' Exhibit 10
Page 2 of 4 pages

Heil Packing Company
September 7, 1956
744 Lot

Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Country Markets Place of Orig.	Country Markets Head	Country Markets Buy Weight	Country Markets Re-weight	Country Markets Gain (-loss)
744	169700	Peo	119	27140	27140	Dec	101	22380	22690	310
						Jax	16	3425	3400	-25
						Ru	130	29250	29660	410
						Ast	39	9090	9000	-90
						Ru	16	3720	3700	-20
						Ch	67	15115	15365	250
						Ru	130	29210	29550	340
						Qy	126	28870	29195	325
							625	141060	142560	1500

Respondents' Exhibit 10
Page 3 of 4 pages

HEIL PACKING COMPANY
OCTOBER 20, 1956

Place	Head	Weight	Sorted Off		Balance to Heil			Gain	Remarks
			Head	Reweigh	Head	Balance	Reweigh		
Quincy	236	55110	(A) 114	26505	122	28605	29000	395	(A) For car

236 - 55110 Purch
114 - 26505 Reweigh
122 - 28605 Balance
122 - 29000 Reweigh
395 Gain

if on 236 - 1.67 pr. hd.
if on 122 - 3.2 pr. hd.

Respondents' Exhibit 10
Page 4 of 4 pages

Heil Packing Company
October 20, 1956
353 Lot

		Posted Markets				Country Markets					
Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-loss)	
353	81400	Bu	40	10070	10070	Ru	116	25735	26125	390	
						Ast	48	10255	10450	195	
						MtS	25	5160	5255	95	
						Bg	2	500	500	-	
						Qy	122	28605	29000	395	236-55110-395
							313	70255	71330	1075	

Respondent's Exhibit 11
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Home Packing Company
December 19, 1955

Place	Head	Weight	Sorted Off Head	Sorted Off Reweigh	Balance to Home Head	Balance to Home Balance	Balance to Home Reweigh	Gain	Remarks
Bowen	232	57295	(A) 101	27565	115	25835	25835	105	(A) Held over
					16	3895	4000	105	
Jax	101	2270	(B) 60	13170	41	9600	9770	170	(B) Cut out for other Load
Griggs.	380	84805	(C) 258	54105	122	30700	31285	585	(C) Weighed off
Decatur	70	15255	(D) 43	8990	27	6265	6300	35	(D) Held over
Quincy	85	20390	(E) 67	15490	18	4900	5150	250	(E) Off to car
Carthage	117	27035			(F)12		2355		
					(F)34		7345		
					(F)28		6340		
					(F) 6	1570	1585	15	
					(F)37	9425	9980	555	

Bowen) 232 - 57295 Purch
101 - 27565 Reweigh
131 - 29730 Balance
131 - 29835 Reweigh
- 105 Gain

if on 232 - .45 pr. hd.
if on 131 - .80 pr. hd.

Jax.) 101 - 22770 Purch
60 - 13170 Reweigh
41 - 9600 Balance
41 - 9770 Reweigh
170 Gain

if on 101 - 1.68 pr. hd.
if on 41 - 4.1 pr. hd.

Griggs) 380 - 84805 Purch
258 - 54105 Reweigh
122 - 30700 Balance
122 - 31285 Reweigh
585 Gain

if on 380 - 1.53 pr. hd.
if on 122 - 4.7 pr. hd.

Decatur) 70 - 15255 Purch
43 - 8990 Reweigh
27 - 6265 Balance
27 - 6300 Balance
35 Gain

if on 70 - .5 pr. hd.
if on 27 - 1.29 pr. hd.

Quincy) 85 - 20390 Purch
67 - 15490 Reweigh
18 - 4900 Balance
18 - 5150 Reweigh
250 Gain

if on 85 - 2.9 pr. hd.
if on 18 - 13.8 pr. hd.

Carthage) 117 - 27035 Purch
74 - 16040 Reweigh (sorting)
43 - 10995 Balance
43 - 11565 Reweigh
570 Gain

if on 117 - 4.8 pr. hd.
if on 43 - 13.6 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
December 19, 1955
595 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(196)	12	2355	2				Ga	12	2355	2355	-	
(216)	34	7345					Ca	34	7345	7345	-	
(225)	143	32175					Bo	115	25835	25835	-	
							Ca	28	6340	6340	-	
								143	32175	32175	-	
(236)	68	16070					Jax	41	9600	9770	170	101-22770-170
							Dec	27	6265	6300	35	70-15255-35
								68	15865	16070	205	
(255)	138	35285					Gr	122	30700	31285	585	380-84805-585
							Ba	16	3895	4000	105	232-57295-105
								138	34595	35285	690	
(266)	164	43730	SP	103	27015	27015	Qy	18	4900	5150	250	
							Ca	37	9425	9980	555	
							"	6	1570	1570	15	
								61	15895	16715	820	
(288)	36	10380	SP	36	10380	10380						
	595	147340		139	37395	37395		456	108230	109945	1715	

Respondent's Exhibit 11
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Home Packing Company
December 27, 1955

Place	Head	Weight	Sorted Off		Balance to Home			Gain	Remarks
			Head	Reweigh	Head	Balance	Reweigh		
Rushville	211	46080	(A) 109	22930	70	16785	16785		(A) Sorted off For Grade
					32	6365	6545	180	

211 - 46080 Purch
109 - 22930 Reweigh
102 - 23150 Balance

70 - 16785 Reweigh
32 - 6545 Reweigh
102 - 23330
180 Gain

if on 211 - .85 pr. hd.
if on 32 - 5.6 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
December 27, 1955
256 Lot

			Posted Markets					Country Markets			
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(155)	27	4140					Ba	3	440	440	-
							"	2	310	310	-
							Gr	22	3290	3390	-
								27	4040	4140	100
(207)	79	16395					Ba	1	180	180	-
							Ca	13	2600	2630	30
							Ru	32	6545	6545	100
							Gr	33	6850	7049	190
								79	15995	16395	400
(225)	14	3160					Ba	14	3160	3160	-
(238)	96	22875					Ba	1	240	240	-
							Ru	70	16785	16785	-
							Gr	25	5850	5850	-
								96	22875	22875	-
(245)	5	1225					Ba	5	1225	1225	-
(266)	21	5595					Ba	5	1345	1345	-
							Ru	16	4350	4250	100
								21	5695	5595	100
(292)	14	4100					Gr	14	4000	4100	100
	256	57490						256	56990	57490	500

211-46080-160

Respondent's Exhibit 11
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Home Packing Company
January 10, 1956
663 Lot

(Z) Sorted Out

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(155)	27	4185	Bu	25	3880	3880	Go	2	305	305	-
(163)	22	3600	Bu	3	485	485	Qy	25	4200	4200	-
							Qy(Z)*	-10	-1750	-1750	-
							Ast	3	500	500	-
							Bo	1	165	165	-
								19	3115	3115	-
(175)	10	1750					Qy(Z)*	10	1750	1750	-
(211)	380	80240	Bu	7	1285	1285	Ma	97	20470	21200	730
							"	27	4925	5100	175
							Ru	12	2380	2360	-20
							Jax	51	11090	11460	370
							"	23	4500	4550	50
							Ch	38	7935	8235	300
							Ast	47	9840	10065	225
							Bo	22	4210	4400	190
							"	25	5020	4950	-70
							Ca	9	1975	1930	-45
							"	4	785	785	-
							Go	18	3750	3920	170
								373	76880	78955	2075
(225)	68	15360					Bo	17	3795	3795	-
							Qy	51	11555	11565	30
								68	15330	15360	30
(235)	69	16230					Ma	6	1440	1440	-
							Qy	38	8970	8840	-130
							Ca	3	700	700	-
							Ast	22	5250	5250	-
								69	16360	16230	-130

Respondent's Exhibit 11
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Home Packing Company
January 10, 1956
663 Lot (Cont'd.)

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	(Z) Sorted Out
(255)	30	7660					Jax	6	1525	1525	-	
							Ch	14	3600	3570	-30	
							Ca	8	2075	2075	-	
							Go	2	490	490	-	
								30	7690	7660	-30	
(264)	6	1585					Ma	6	1585	1585	-	
(275)	49	13480					Qy	14	3805	3800	-5	
							Jax	9	2475	2475	-	
							Bu	14	3900	3905	5	
							Ca	7	1950	1950	-	
							Ast	5	1350	1350	-	
								49	13480	13480	-	
	2	620					Ma	1	305	305	-	
							Jax	1	305	315	-10	
								2	610	620	10	
	665	144710		35	5650	5650		628	137105	139060	1955	

Respondent's Exhibit 11
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Home Packing Company
February 13, 1956

Place	Head	Weight	Sorted Off		Balance to Home			Gain	Remarks
			Head	Reweigh	Head	Balance	Reweigh		
Baring	175	3733	(A) 49	10765	126	26565	27385	820	(A) Off for car
Griggsville	161	34955	(B) 72	15635	89	19320	19930	610	(B) Held over
Da City	199	44040	(C) 128	28270	49 22	10670 5100	11140 5200	470	(C) Held over

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Baring)
175 - 37330 Purch
49 - 10765 Reweigh
126 - 26565 Balance
126 - 27385 Reweigh
820 Gain

Griggsville)
161 - 34955 Purch
72 - 15635 Reweigh
89 - 19320 Balance
89 - 19930 Reweigh
- 610 Gain

Dallas City)
199 - 44040 Purch
128 - 28270 Reweigh
71 - 15770 Balance
49 - 11140 Reweigh
22 - 5200 Reweigh
71 16340 Balance
570 Gain

if on 175 - 4.6 pr. hd.
if on 126 - 6.5 pr. hd.

if on 161 - 3.7 pr. hd.
if on 89 - 6.8 pr. hd.

if on 199 - 2.8 pr. hd.
if on 71 - 8.0 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
February 13, 1956
688 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(155)	15	2325					Bg	15	2325	2325	-	
(175)	50	8755	Sp	32	5000	5000	Ch	18	3755	3755	-	
(215)	558	120370	Sp	22	3820	3820	Gr	89	19320	19930	610	161-34955-610
							Ca	15	3160	3180	20	
							Bg	126	26565	27385	820	175-37330-820
							Bg(A)*	-15	-2325	-2325	-	
							Gr	17	2920	2920	-	
							Gr	8	1425	1450	25	
							Dec	104	22215	22925	710	
							Dec	12	2280	2300	20	
							"	15	2695	2660	55	
							Ba	49 X	10670	11140	470	199-44040-570 X
							Ch	111	23820	24260	440	199-44040-570 X
							"	22	4265	4300	35	
							"	1	165	180	15	
							" (B)*	-18	-3755	-3755	-	
								536	11330	116550	3220	
(235)	38	8965					Gr	16	3715	3765	50	
							Da	22	5100	5200	100	
								38	8815	8965	150	
(255)	14	3580					Gr	14	3520	3580	60	
(268)	9	2420					Gr	1	285	285	-	
							Da	3	785	785	-	
							Da	5	1350	1350	-	
								9	2420	2420	-	
(331)	4	1325					Gr	4	1325	1325	-	
	688	147740		54	8820	8820		634	135490	138920	3430	

Home Packing Company
March 12, 1956

			Sorted Off		Balance to Home				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Baring	207	43275	(A) 131	28810	31	6910	7050	140	(A) Re-sorted
					37	6355	6510	155	
					8	1200	1265	65	
Carthage	179	40720	(B) 75	19960	49	10375	10575	200	
					47	9080	9270	190	(B) Off for other loads
					8	1305	1300	-5	

Baring) 207 - 43275 Purch
131 - 28810 Reweigh
76 - 14465 Balance
76 - 14825 Reweigh
360 Gain

if on 207 - 1.73 pr. hd.
if on 76 - 4.7 pr. hd.

Carthage) 179 - 40720 Purch
75 - 19960 Reweigh
104 - 20760 Balance
104 - 21145 Reweigh
385 Gain

if on 179 - 2.1 pr. hd.
if on 104 - 3.7 pr. hd.

Respondent's Exhibit 11
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Respondent's Exhibit 11
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Home Packing Company
March 12, 1956
569 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Buy Weight	Reweigh Weight	Head	Gain (-Loss)	(A) Weighted off sorted.
(155)	21	3255					Ca	1305	1300	8	-5	179-40720-(-5)*
							Ast	1810	1810	12	-	
							Da	145	145	1	-	
								3260	3255	21	-5	
(164)	65	10665	Peo	38	6295	6295	Ast	165	165	(1)	-	
							Bg	1200	1265	(8)	65	207-43275-65*
							Pa	2900	2940	(18)	40	
								4265	4370	(27)	105	
(175)	68	11910					Jax	2815	2870	(16)	55	
							Bo	675	700	(4)	25	
							Ru	1865	1940	(11)	75	
							Ast	1625	1640	(9)	15	
							Bo	4760	4760	(28)	-	
								11740	11910	68	170	
(203)	415	84530					Bo	18770	19150	89	380	
							Bo (A)*	-4760	-4760	-28	-	
							Bg	6910	7050	31	140	207-43275-140X
							"	190	190	X1	-	
							"	6355	6510	37	155	
							Jax	2615	2675	14	-60	207-43275-155X
							Ast	3005	3150	17	65	
							Ca	10375	10575	49	200	179-40720-200*
							"	9080	9270	47	190	179-40720-190*
							Da	20730	21180	107	450	
							Ru	1085	1085	6	-	
							Pa	4975	4940	27	-35	
							Go	3490	3515	18	25	
								82900	84530	415	1630	
	569	110360		38	6295	6295		102165	104065	531	1900	

Home Packing Company
February 16, 1956
643 Lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(154)	27	4180	Sp	16	2390	2390	Qy	8	1220	1310	90
							MtS	3	450	480	30
								11	1670	1790	120
(171)	88	15085	Sp (A)*	22	3775	3775	Ba	11	1800	1880	80
			Sp	10	1625	1625	Ch	31	5205	5425	220
							Jax	9	1520	1560	40
				32	5400	5400	Pa	5	810	820	10
								56	9335	9685	350
(184)	40	7395					Dec	4	700	700	-
							Qy	7	1280	1280	-
							Ba	17	3025	3150	125
							Ch	1	195	195	-
							Ch	11	2090	2070	-20
								40	7290	7395	105
(212)	355	75300	Bu (B)*	36	6380	6380	Jax	10	1900	1965	65
							Ba	99	20420	21000	580
							Ba	1	210	210	-
							Ba	7	1525	1550	25
							Pa	12	2360	2460	100
							Pal	25	5535	5720	185
							Dec	18	3450	3600	150
							Gr	45	9675	9975	300
							Gr	5	945	1000	55
							Qy	16	3495	3650	155
							Ast	15	3355	3400	45
							Ga	10	2300	2360	60
							MtS	7	1540	1500	-40
							Ch	43	9210	9270	60
							Ch	1	200	200	-
							Ca	5	1040	1060	20
								319	67160	68920	1760

(A) Only fair Quality - sold at lower price

(B) Top quality premium sale

Respondent's Exhibit 11
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February 16, 1956
643 Lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
	75	18015	Bu	32	7480	7480	Dec	34	8055	8310	255
							Ast	3	750	750	0
							Ch	1	240	240	-
							Dec	5	1235	1235	-
								43	10280	10535	255
(266)	6	1600					Cy	3	785	785	-
							Ba	2	550	550	-
							Ca	1	265	265	-
								6	1600	1600	-
(325)	16	5200					Qy	9	3210	3210	-
							Pa	5	1420	1420	-
							Ch	2	570	570	-
								16	5200	5200	-
(300)	8 S	2400					Qy	3	945	945	-
							Ca	1	310	310	-
							Pa	4	1145	1145	-
								8	2400	2400	-
(380)	23 S	8740					Qy	1	390	390	-
							MtS	3	1130	1130	-
							Gr	1	390	390	-
							Ba	6	2255	2230	-25
							Ba	12	4575	4600	25
								23	8740	8740	-
(430)	3 S	1290					Pa	2	840	840	-
							Da	1	450	450	-
								3	1290	1290	-
(495)	2 S	990					Qy	1	490	490	-
							MtS	1	500	500	1
								2	990	990	-

(A) Only fair Quality - sold at lower price

(B) Top quality premium sale.

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Home Packing Company
April 9, 1956

			Sorted Off		Balance to Home				
Place	**Head**	**Weight**	**Head**	**Reweigh**	**Head**	**Balance**	**Reweigh**	**Gain**	**Remarks**
Baring	184	38060	(A) 130	27410	20	4430	4580	150	(A) off to
					25	4460	4460	-	other
					9	1760	1780	20	load.

184 - 38060 Purch
130 - 27410 Reweigh
54 - 10650 Balance
54 - 10820 Reweigh
170 Gain

if on 184 - .92 pr. hd.
if on 54 - 3.1 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
April 9, 1956
510 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(133)	7	935	Sp	6	790	790	Dec	1	145	145	-	
(150)	46	7110	Sp	4	585	585	Pa	8	1255	1255	-	
			"	12	1850	1850						
			Bu	22	3420	3420						
				38	5855	5855						
(164)	40	6560	Sp	14	2300	2300	Ast	10	1600	1600	-	
			Bu	16	2600	2600						
				30	4900	4900						
(175)	49	8600	Sp	12	2070	2070	Ru	1	175	175	-	
			Bu	5	870	870	Jax	4	675	675	-	
							Bg	25	4460	4460	-	184-38060-X
				17	2940	2940	Mac	2	350	350	-	
								32	5660	5660	-	
(214)	284	60880	Bu	29	5725	5725	Ma	19	3865	4000	135	
							Ma	11	2040	2100	60	
							Dec	2	360	360	-	
							Dec	1	205	205	-	
							"	24	4965	5120	155	
							"	10	1975	2040	65	
							"	1	200	200	-	
							"	4	875	900	25	
							Ru	42	8945	9075	130	
							Jax	26	5615	5775	160	
							"	6	1180	1200	20	
							Ast	51	10910	11240	330	
							Bg	20	4430	4580	150	184-38060-150 X
							"	9	1760	1780	20	184-38060-20 X
							Qy	40	9115	9400	285	
							Qy (A)*	-7	-1850	-1850	-	
							" (B)*	-5	-1190	-1190	-	
							Pa	1	220	220	-	
								255	53620	55155	1535	

(A) Got mixed sorted out.

(B) Got mixed sorted out.

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Home Packing Company
April 9, 1956
510 Lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(235)	22	5170					Dec	17	3980	3980	-
							Qy	5	1190	1190	-
								22	5170	5170	-
(256)	42	10760					Ru	15	3825	3825	-
							ASt	2	510	510	-
							Qy	7	1850	1850	-
							Ba	18	4610	4575	-35
								42	10795	10760	-35
(271)	13	3530					Dec	9	2385	2385	-
							"	1	285	285	-
							Ma	3	860	860	-
								13	3530	3530	-
(362)	7	2540					Dec	7	2540	2540	-
	510	106085		120	20210	20210		390	84375	85875	1500

(A) Got mixed sorted out.
(B) Got mixed sorted out.

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Home Packing Company
April 17, 1956

Place	Head	Weight	Sorted Off Head	Sorted Off Reweigh	Balance to Home Head	Balance to Home Balance	Balance to Home Reweigh	Gain	Remarks
Mt. Sterling	133	26195	(A) 65	13890	35	6680	6850	170	(A) Off to another load.
					33	5625	5700	75	

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133 - 26195 Purch
65 - 13890 Reweigh
68 - 12305 Balance
68 - 12550 Reweigh
- 245 Gain

if on 133 - 1.84 pr. hd.
if on 68 - 3.6 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
April 17, 1956
576 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(143)	7	1005	Sp	7	1005	1005						
(154)	23	3560	Sp	8	1265	1265	Jax	15	2235	2295	60	
(165)	50	8265	Sp	24	4020	4020	Ch	26	4245	4245	-	
(175)	97	16885	Sp	3	525	525	Jax	17	2990	3000	10	
							Ru	22	3800	3850	50	
							Ast	2	345	345	-	
							MtS	33	5625	5700	75	133-26195/75X
							Ch	46	7745	7810	65	
							"	-26	-4245	-4245	-	
								94	16260	16460	200	
	395	83600					Jax	97	20955	21350	395	
							"	6	1100	1150	50	
							"	16	3060	3100	40	
							Ru	37	7670	7800	130	
							"	1	250	250	-	
							Dec	11	2380	2400	20	
							"	1	180	180	-	
							"	5	1155	1155	0	
							MtS	35	6680	6850	170	133-26195-170X
							Ch	11	2610	2700	90	
							"	8	1510	1500	-10	
							Ast	21	4455	4500	45	
							"	4	750	750	-	
							Da	25	5110	5100	-10	
							"	48	11010	11265	255	
							"	69	13285	13550	265	
								395	82160	83600	1440	
	4	1010					Ch	4	1010	1010	-	
	576	114425		42	6815	6815		534	105910	107610	1700	

Respondent's Exhibit 11
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Home Packing Company
April 28, 1956

Place	Head	Weight	Sorted Off Head	Sorted Off Reweigh	Balance to Home Head	Balance to Home Balance	Balance to Home Reweigh	Gain	Remarks
Quincy	69	14125	(A) 44	9530	6	1050	1135	85	(A) Off for car.
					19	3545	3710	165	
Palmyra	31	3915	(B) 20	4870	10	1875	1900	25	(B) Off for car.
					1	170	180		

Quincy) 69 - 14125 Purch
44 - 9530 Reweigh
25 - 4595 Balance
25 - 4545 Reweigh
250 Gain

if on 69 - 3.6 pr. hd.
if on 25 - 10.0 pr. hd.

Palmyra) 31 - 6915 Purch
20 - 4870 Reweigh
11 - 2045 Balance
11 - 2080 Reweigh
35 Gain

if on 31 - 1.1 pr. hd.
if on 11 - 3.1 pr. hd.

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Home Packing Company
April 28, 1956
396 Lot

	Head	Weight	Posted Markets Place of Orig.	Head	Buy Weight	Sale Weight	Country Markets Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(135)	15	2025					Qy	2	310	310	-	
							Ma	1	130	130	-	
							Pa	12	1605	1585	-20	
								15	2045	2025	-20	
(145)	9	1305	Bu	4	575	575	Ba	5	730	730	-	
(166)	43	7145	Peo	26	4355	4355	Ch	7	1170	1170	-	
							Ma	10	1620	1620	-	
								17	2790	2790	-	
(174)	72	12580	Bu	8	1360	1360						
			Sp	43	7380	7380	Bo	3	535	550	15	
							Go	4	700	740	40	
				51	8740	8740	Ba	7	1185	1235	50	
							Pa	1	170	180	10	31-6915-10*
							Qy	6	1050	1135	85	69-14120-85*
								21	3640	3840	200	
(183)	20	3665					Da	6	1085	1085	-	
							Bo	14	2565	2580	20	
								20	3645	3665	20	
(198)	207	41185	Bu	22	4250	4250						
			Sp	14	2820	2820						
			"	14	2680	2680	Ch	30	5655	5875	220	
							Dec	10	2105	2200	95	
				50	9750	9750	"	24	4500	4675	175	
							Da	1	240	240	-	
							Go	10	1925	1975	50	
							Ma	4	770	770	30	
							Ba	17	3505	3600	95	
							"	10	1865	1900	35	
							Pa	10	1875	1900	25	31-6915-25*
							Qy	19	3545	2710	165	69-14125-165*
							Gr	22	4390	4560	170	
								157	30375	31435	1060	

Respondent's Exhibit 11
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Home Packing Company
April 28, 1956
396 Lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
(240)	12	2885					Dec	7	1615	1615	-
							Dec	5	1270	1270	-
								12	2885	2885	-
(284)	18	5115					Bu	9	2515	2515	-
							"	2	610	610	-
							Ba	7	1990	1990	-
								18	5115	5115	-
	396	75905		131	23420	23420		265	51225	52485	1260

Home Packing Company
May 1, 1956

			Sorted Off		Balance to Home				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Astoria	182	41360	(A) 146	34655	36	6705	6785	80	(A) For 2 other loads
Baring	151	31280	(B) 127	26820	24	4460	4575	115	(B) Off to BVD
Macon	76	15020	(C) 40	8650	11 25	2060 4310	2100 4420	40 110	(C) To Pal. for car later
Palmyra	185	39755	(D) 128	28500	30 27	6050 5205	6270 5400	220 195	(D) For car

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Astoria) 182 - 41360 Purch
146 - 34655 Reweigh
36 - 6705 Balance
36 - 6785 Reweigh
80 Gain

if on 182 - .43 pr. hd.
if on 36 - 2.2 pr. hd.

Baring) 151 - 31280 Purch
127 - 26820 Reweigh
24 - 4460 Balance
24 - 4575 Reweigh
115 Gain

if on 151 - .76 pr. hd.
if on 24 - 4.7 pr. hd.

Macon) 76 - 15020 Purch
49 0 8650 Reweigh
36 - 6370 Balance
36 - 6520 Reweigh
150 Gain

if on 76 - 1.9 pr. hd.
if on 36 - 4.1 pr. hd.

Palmyra) 185 - 39755 Purch
128 - 28500 Reweigh
57 - 11255 Balance
57 - 11670 Reweigh
415 Gain

if on 185 - 2.2 pr. hd.
if on 57 - 7.2 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
May 1, 1956
285 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(147)	7	1035	Sp	6	890	890	Bg	1	145	145	-	
(165)	42	6940	Sp	7	1110	1110	Bg	17	2725	2790	65	
			Sp	14	2340	2340	Pa	4	675	675	25	
				21	3450	3540		21	3400	3490	90	
							Ma	25	4310	4420	110	76-15020-110X
(175)	55	9655	Sp	30	5235	5235	MtS	9	1630	1660	30	
							Ast	36	6705	6705	80	182-41360-80
							Ast	-6	-1200	-1200	-	
								39	7135	7245	110	
(185)	39	7245					Ast	6	1200	1200	-	
							Bg	24	4460	4575	115	151-31280-115
							Mac	11	2060	2100	40	
							MtS	44	9790	10140	350	
							Pal	30	6050	6270	220	185-39755-220*
							"	27	5205	5400	195	185-39755-195*
(209)	142	29685						142	28765	29685	920	
	285	54560		57	9575	9575		228	43755	44985	1230	

Home Packing Company
May 9, 1956

Place	Head	Weight	Sorted Off		Balance to Home			Gain	Remarks
			Head	Reweigh	Head	Balance	Reweigh		
Baring	145	29790	(A) 93	20265	52	9525	9890	165	(A) Off to other loads
Dallas City	189	40900	(B) 132	28845	57	12055	12200	145	(B) Off to other loads
Bowen	144	32090	(C) 39	10095	105	21995	22120	125	(C) Off to other loads
Jax	294	66280	(D) 238	54420	23 33	5360 6500	5490 6675	130 175	(D) For 2 other loads

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Baring) 145 - 29790 Purch
93 - 20265 Reweigh
52 - 9525 Balance
52 - 9890 Reweigh
365 Gain

if on 145 - 2.5 pr. hd.
if on 52 - 7.0 pr. hd.

Dallas City) 189 - 40900 Purch
132 - 28845 Reweigh
57 - 12055 Balance
57 - 12200 Reweigh
145 Gain

if on 189 - .75 pr. hd.
if on 57 - 2.5 pr. hd.

Bowen) 144 - 32090 Purch
39 - 10095 Reweigh
105 - 21995 Balance
105 - 22120 Reweigh
125 Gain

if on 144 - .86 pr. hd.
if on 105 - 1.1 pr. hd.

Jacksonville) 294 - 66280 Purch
238 - 54420 Reweigh
56 - 11860 Balance
23 - 5490 Reweigh
33 - 6675 Reweigh
305 Gain

if on 294 - 1.03 pr. hd.
if on 56 - 5.4 pr. hd.

Respondent's Exhibit 11
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Home Packing Company
May 9, 1956
530 Lot

			Posted Markets				Country Markets					
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)	
(41)	4	565	Sp	3	425	425	Bg	1	140	140	14	
(155)	16	2485	Sp	6	945	945	Bo	1	155	155	-	
							Jax	3	445	445	-	
							Ca	6	940	940	-	
								10	1540	1540	-	
(167)	21	3510					Bo	2	325	325	-	
							Bg	17	2855	2855	-	
							Jax	2	330	330	-	
								21	3510	3510	-	
(185)	76	14135	Sp	5	845	845	Gr	14	2425	2500	75	
							Ca	5	890	900	10	
							Bg	52	9525	9890	365	145-29790-365
								71	12840	13290	450	
(213)	412	88120					Med	62	13100	13300	200	
							"	11	2090	2100	10	
							Ca	16	3445	3400	-45	
							Gr	91	19615	19900	285	
							"	12	2325	2350	25	
							Da	57	12055	12200	145	189-40900-145
							Bo	105	21995	22120	125	144-32090-125
							"	3	585	585	-	
							Jax	25	5360	5490	130	294-66280/130
							"	33	6500	6675	175	-175
								413	87070	88120	1050	
	530	108815		14	2215	2215		516	105100	106600	1500	

Home Packing Company
March 20, 1957
440 Lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Orig.	Head	Buy Weight	Sale Weight	Place of Orig.	Head	Buy Weight	Reweigh Weight	Gain (-Loss)
	1	140	Sp	1	140	140					
(154)	14	2165	Sp	12	1865	1865	Ch	2	300	300	-
(164)	54	8870					Bg	7	1140	1140	-
							Jax	7	1160	1160	-
							MtS	21	3420	3420	-
							Pa	19	3150	3150	-
								54	8870	8870	0
(174)	50	8705	Sp	12	2040	2040	Bg	7	1225	1225	-
							Bg (A)*	16	2650	2610	-40
							Go	15	2830	2830	-
								38	6705	6665	-40
(184)	92	16980	Sp	70	12750	12750	Go (B)*	22	4230	4230	-
(203)	229	46655					Bg	41	7735	8000	265
							Bg (A)*	-16	-2650	-2650	-
							Jax	16	3045	3150	105
							Ru	23	4910	5060	150
							Go	69	14635	15000	365
							"	31	5340	5550	210
							Go (B)*	-22	-4230	4230	-
							Pa	39	7525	7525	-
							MtS	37	7000	7150	150
							Ch	11	2005	2100	95
								229	45315	46655	1340
	440	83515		95	16795	16795		345	65420	66720	1300

(A) sorted lights out.
(B) sort out fair quality off 25¢

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Respondents' Exhibit 12
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Swift & Company
Dec. 9, 10, 1955

Head	Weight	Date	Head	Buy Weight	Reweigh	Gain (-loss)
41	5950	12/9	41	5850	5950	100
		12/10				
62	10505	12/9	9	1490	1520	30
		12/10	53	8715	8985	270
258	56825	12/9	201	44220	45140	920
		12/10	57	11330	11685	355
117	29030	12/9	117	28975	29030	55
192	50890	12/9	172	45350	45655	305
		12/10	20	5180	5235	55
53	15755	12/9	36	10820	10795	- 25
		12/10	17	4945	4960	15
28	9460	12/9	5	1760	1760	-
		12/10	23	7700	7700	-
13 S	4350	12/9	6	2105	2160	55
		12/10	7	2125	2190	65
52 S	23065	12/9	17	7395	7405	10
		12/10	35	15570	15660	90
19 S	10560	12/9	3	1720	1720	-
		12/10	16	8840	8840	-
835	214090		835	214090	216390	2300

If on 835 - 2.7 pr. hd.

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Swift & Company
Dec. 9, 10, 1955

			Sorted off		Balance to Swift				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Barry	225	47180	(A) 141	28345	84	18835	19320	485	(A) Sent to Qcy for Sat. Lds.
Bowen	200	48265	(B) 108	23285	82 10	22025 2955	22240 2965	215 10	(B) HO for Sunday ld.
Griggs.	32	4375	(C) 17	2040	15	2335	2415	80	(C) Sorted off lites
Barry	69	13405	(D) 41	8670	28	7435	4905	170	(D) HO for Sunday
Jax	73	15125	(E) 43	8530	30	6595	6825	230	(E) Cut out for Sun.

Barry
225 - 47180 Purch
141 - 28345 Reway
84 - 18835 Balance
84 - 19320 Reway
485 Gain

if on 84 - 5.8 pr.hd.
if on 225 - 2.2 pr.hd.

Bowen
200 - 48265 Purch.
108 - 23285 Reway
92 - 24980 Balance
82 - 22240 Reway
10 - 2965 Reway
92 - 25205
225 Gain

if on 92 - 2.3 pr.hd.
if on 200 - 1.1 pr.hd.

Grigg.
32 - 4375 Purch
17 - 2040 Reway
15 - 2335 Balance
15 - 2415 Reway
80 Gain

if on 32 - 2.5 pr.hd.
if on 15 - 3.3 pr.hd.

Barry
69 - 13405 Purch
41 - 8670 Reway
28 - 4735 Balance
28 - 4905 Reway
170 Gain

if on 28 - 6.0 pr.hd.
if on 69 - 2.4 pr.hd.

Jacksonville
73 - 15125 Purch
43 - 8530 Reway
30 - 6595 Balance
30 - 6825 Reway
230 Gain

if on 30 - 7.7 pr.hd.
if on 73 - 3.0 pr.hd.

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Swift & Company
December 9, 1955
835 lot (2 days)

			Posted Markets				Country Markets					
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)	
(145)	41	5950										
(169)	62	10505					Astoria	2	325	330	5	
							Media	7	1165	1190	25	
								9	1490	1520	30	
(220)	258	56825					Astoria	43	9445	9630	185	
							Astoria	28	5390	5400	10	225-47180-485
							Barry	84	18835	19320	485	
							Rush.(X)	16	3605	3620	15	
							Rush.(X)	41	9675	9900	225	
							Barry(Z)	-11	-2730	-2730	-	
								201	44220	45140	920	
(248)	117	29030					Astoria	25	6190	6200	10	
							Barry	39	9480	9450	-30	
							Barry (Y)	11	2730	2730	-	
							Rush.	42	10575	10650	75	
								117	28975	29030	55	
(265)	192	50890					Astoria	1	280	280	-	
							Bowen	82	22025	22240	215	200-48265-215 X
							Quincy	9	2385	2360	-25	
							Quincy	1	280	280	-	
							Rush.	18	4935	4920	-15	
							Quincy	61	15445	15575	130	
								172	45350	45655	305	
(297)	53	15755					Golden	25	7570	7535	-35	
							Barry	1	295	295	-	200-48265-10X
							Bowen	10	2955	2965	10	
								36	10820	10795	-25	
(337)	28	9460					Astoria	4	1430	1425	- 5	
							Rush.	1	330	335	5	
								5	1760	1760	-	
(334)	138	4350					Bowen	1	335	340	5	
							Media	3	1005	1035	30	
							Media	2	765	785	20	
								6	2105	2160	55	

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Swift & Company
835 lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(443)	528	23065					Astoria	1	430	430	-
							Bowen	3	1380	1400	20
							Bowen	3	1145	1150	5
							Quincy	1	440	440	-
							Media	5	2120	2100	-20
							Media	1	490	490	-
							Media	1	535	540	5
							Rush.	1	395	395	-
							Rush.	1	460	460	-
								17	7395	7405	10
(555)	198	10560					Media	3	1720	1720	-
								566	143835	145185	1350

(Z) Sorted out to heavier pen
(Y) Sorted from lighter pen

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Swift & Company
December, 10, 1955
488 Lot

(1) Sorted off at Macon; (2) Sorted off at Macon
(*) Unloaded in Chapin - fed & watered while truck went back to Spr.

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(160)	3	480					Macon	2	320		
							Macon	2	300		
								4	620		
								(2) -1	-150		
								3	470	480	10
(225)	126	28430					Macon	94	20795		
							Macon	20	4800		
							Macon	19	3655		
								133	29250		
								(1) -7	-1470		
								126	27780	28430	650
(265)	102	27065	Spr.	48	12470	12470	Quincy	54	14095	14595	500
(285)	138	39440					Macon	3	930	930	-
							Quincy	51	14345	14310	-35
							Astoria	4	1210	1210	-
							Astoria	5	1350	1350	-
							Chapin	21	5800	5800	-
							Rush.	54	15705	15840	135
								138	39340	39440	100
(349)	558	18505	Spr.	36	11890	11890					
			"	17	6615	6615					
				53	18505	18505					
(471)	558	25910	Spr.	26	11150						
			"	20	9525						
			"	9	4735						
				*55	25910	25910					
(561)	118	6175	Spr.	11	6175	6175					
	488	146005		167	63060	63060		321	81685	82945	1260

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Swift & Company
December 10, 1955
835 lot

	Head	Weight	Posted Markets Place of Origin	Head	Buy Weight	Reway Weight	Country Markets Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)	
(145)	41	5950					Golden	4	590	590	-	
							Quincy	20	2775	2890	115	
							Barry	1	145	145	-	
							Jax	12	1735	1710	-25	
							Jax	4	605	615	10	
								41	5850	5950	100	
(169)	62	10505					DaCity	2	325	320	- 5	
							Barry	28	4735	4905	170	
							Jax	8	1320	1345	25	
							Griggs.	15	2335	2415	80	
								53	8715	8985	270	
(220)	258	56825					Jax	30	6595	6825	230	
							Mt.Ster.	7	1215	1290	75	69-13405-170
							Decatur	20	3520	3570	50	32-4375-80
								57	11330	11685	355	
(248)	117	29030					Decatur	4	1080	1085	5	73-15125-230
							Decatur	16	4100	4150	50	
								20	5180	5235	55	
(265)	192	50890					Mt.Ster.	5	1435	1435	-	
							Decatur	7	2075	2090	15	
							Jax	3	865	865	-	
							Golden	1	285	285	-	
							Quincy	1	285	285	-	
								17	4945	4960	15	
(297)	53	15755					Decatur	12	4135	4135	-	
							Carth.	2	690	700	10	
							Jax	9	2875	2865	-10	
								23	7700	7700	-	
(337)	28	9460					DaCity	2	635	660	25	
							Mt.Ster.	1	335	350	15	
							Grigg.	1	315	315	-	
							Carth.	1	330	325	- 5	
							Jax	2	510	540	30	
								7	2125	2190	65	

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Swift & Company
835 lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(334)	138	4350					DaCity	7	3190	3200	10
							Quincy	1	430	430	-
							Mt.Ster.	6	2650	2670	20
							Griggs.	1	495	500	5
							Griggs.	3	1250	1260	10
							Carth.	2	965	950	-15
							Carth.	2	895	900	5
(443)	528	23065					Carth.	2	1000	1000	-
							Carth.	4	2060	2100	40
							Carth.	1	380	380	-
							Griggs.	6	2255	2270	15
								35	15570	15660	90
(555)	198	10560					Golden	9	4870	4900	30
							Barry	6	3300	3270	-30
							Jax	1	670	670	-
								16	8840	8840	-
	835	216390						269	70255	71205	950

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Swift & Company
Dec. 12, 1955

			Sorted off		Balance to Swift				
Place	Head	Weight	Head	Reweigh	Head	Weight	Reweigh	Gain	Remarks
Palmyra	78	14430	(A) 66	12535	12	1895	1955	60	(A) to Q for FH
Astoria	82	20615	(B) 52	12070	30	8545	8915	370	(B) Sorted off for Home

Palmyra
78 - 14430 Purch
66 - 12535 Reway
12 - 1895 Balance
12 - 1955 Reway
60 Gain

if on 78 - .76 pr.hd.
if on 12 - 5.0 pr.hd.

Astoria
82 - 20615 Purch
52 - 12070 Reway
30 - 8545 Balance
30 - 8915 Reway
370 Gain

if on 82 - 4.5 pr.hd.
if on 30 - 12.3 pr.hd.

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Swift & Company
December 12, 1955
183 lot.

			Posted Markets				Country Markets					
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)	
(181)	20	3260	Spr.	4	660	660	Rush.	1	165	165	-	
			Spr.	1	185	185	Palmyra	12	1895	1955	60	
				5	845	845	Macon	2	295	295	-	78-14430-60
								15	2355	2415	60	
(210)	40	8405					Macon	7	1655	1735	80	
							Macon	33	6350	6670	320	
								40	8005	8405	400	
(265)	15	3985					Palmyra	15	3985	3985	-	
(295)	39	11525					Astoria	30	8545	8915	370	
							Mt.Ster.	2	600	620	20	82-20615-370
							Mt.Ster.	6	1670	1700	30	
							Macon	1	290	290	-	
								39	11105	11525	420	
(345)	238	7940	Spr.	2	610	610	Rush.	3	1045	1065	20	
							Quincy	1	265	265	-	
							Quincy	2	725	725	-	
							Mt.Ster.	1	365	365	-	
							Palmyra	4	1365	1375	10	
							Palmyra	2	710	710	-	
							Palmyra	1	335	335	-	
							Macon	7	2490	2490	-	
								21	7300	7330	30	
(450)	328	14410	Spr.	12	5300	5300	Rush.	2	910	940	30	
							Mt.Ster.	2	995	1020	25	
							Palmyra	1	405	400	- 5	
							Palmyra	1	455	465	10	
							Macon	11	4550	4775	225	
							Macon	1	495	500	5	
							Rush.	2	1000	1010	10	
								20	8810	9110	300	

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Swift & Company
183 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(555)	148	7780	Spr.	5	√595	√595	Quincy	2	1100	1100	-
							Mt. Ster.	2	1080	1115	35
							Mt. Ster.	4	2365	2400	35
							Mt. Ster.	1	590	570	-20
								9	5135	5185	50
	183	57305		24	9350	9350		159	46695	47955	1260

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Swift & Company
Dec. 16, 17, 1955

Place	Head	Weight	Sorted off Head	Sorted off Reweigh	Balance to Swift Head	Balance to Swift Balance	Reweigh	Gain	Remarks
Jax	52	12450	(A) 27	6000	25	6450	6565	115	(A) Hold over for Next morning load on C.Htr.
Rush.	75	22095	(B) 65	19265	10	2830	2900	70	(B) Sorted off for heavy load
Baring	156	32935	(C)137	27655	9 10	2385 2895	2435 2975	50 80	(C) for V.D.- sorted off 12/16 shipped 12/18

Jax)
52 - 12450 Purch
27 - 6000 Reway
25 - 6450 Balance
25 - 6565 Reway
115 Gain

if on 52 - 2.2 pr.hd.
if on 25 - 4.6 pr.hd.

Rushville
75 - 22095 Purch
65 - 19265 Reway
10 - 2830 Balance
10 - 2900 Reway
70 Gain

if on 75 - .93 pr.hd.
if on 10 - 7.0 pr.hd.

Baring)
156 - 32935 Purch
137 - 27655 Reweigh
19 - 5280 Balance
19 - 5410 Reway
130 Gain

if on 156 - .83 pr.hd.
if on 19 - 6.8 pr.hd.

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Swift & Company
December 16, 1955
271 lot.

			Posted Markets				Country Markets					
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)	
(264)	40	10570					Baring	9	2385	2435	50	76-32935-130-50
							Palmyra	6	1535	1570	35	
							Jax	25	6450	6565	115	52-12450 - 115
								40	10370	10570	200	
(295)	36	10620	Spr.	1	310	310	Baring	10	2895	2975	80	
							Palmyra	3	830	855	25	76-32935 80X
							Rush.	10	2830	2900	70	75-22095 70
							Astoria	5	1545	1600	55	
							Jax	6	1740	1710	-30	
							Chapin	1	270	270	-	
								35	10110	10310	200	
(344)	468	15850	Spr.	5	1630	1630	Quincy	2	600	620	20	
			Bush.	11	4070	4070	Mt.Ster.	5	1595	1635	40	
				16	5700	5700	Griggs.	17	5810	5960	150	
							Palmyra	2	605	605	-	
							Quincy	1	380	360	-20	
							Bowen	1	270	270	-	
							Astoria	2	690	700	10	
								30	9950	10150	200	
(396)	578	22590	Spr.	8	3165	3165	Quincy	5	2055	2040	-15	
							Mt.Ster.	7	2685	2700	15	
							Palmyra	5	1840	1840	-	
							Palmyra	9	3625	3700	75	
							Barry	6	2310	2400	90	
							Chapin	1	400	400	-	
							Rush.	10	3895	3965	70	
							Jax	4	1645	1600	-45	
							Astoria	2	780	780	-	
								49	19235	19425	190	

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Swift & Company
271 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(476)	728	34295	Spr.	7	3465	3465	Quincy	2	1015	1050	35
							Mt.Ster.	14	6030	6270	240
							Griggs.	2	915	900	-15
							Baring	1	450	460	10
							Palmyra	9	4210	4350	140
							Barry	1	435	435	-
							Barry	5	2375	2410	35
							Bowen	7	2985	3105	120
							Bowen	2	960	975	15
							Chapin	1	440	455	15
							Palmyra	7	3550	3670	120
							Rush.	6	3015	3100	85
							Astoria	2	930	970	40
							Astoria	1	500	500	-
							Griggs.	5	2100	2180	80
								65	29910	30830	920
(584)	208	11690	Spr.	3	1715	1715	Mt.Ster.	11	6075	6230	155
							Palmyra	1	805	805	-
							Barry	2	1200	1210	10
							Bowen	3	1695	1730	35
								17	9775	9975	200
	271	105615		35	14355	14355		236	89350	91260	1910

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Swift & Company
Dec. 26, 1955
403 lot

			Posted Markets				Country Markets				
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(156)	16	2505	Bush.	5	765	765	Golden	4	645	675	30
							DaCity	5	735	770	35
							Media	2	295	295	-
								11	1675	1740	65
(225)	152	24330					Barry	12	2485	2570	85
							Barry	1	215	215	-
							Golden	13	2845	2965	120
							Bowen	6	1330	1400	70
							DaCity	34	7405	7630	225
							DaCity	22	5100	5200	100
							Media	13	2630	2730	100
							Media	7	1360	1350	-10
							Mt.Ster.	41	9410	9530	120
							Palmyra(2)	3	740	740	-
								152	33520	34330	810
(264)	46	11720	Bush.	18	4450	4450	Jax	22	5510	5690	180
							Media	2	530	530	-
							Chapin	2	520	520	-
							Bowen	2	530	530	-
								28	7090	7270	180
(272)	44	11970					Jax	36	9610	9750	140
							Bowen	6	1635	1665	30
							Mt.Ster.	2	555	555	-
								44	11800	11970	170
(288)	62	17880					Jax	16	4550	4630	80
							Bowen	18	5125	5315	190
							DaCity	1	285	285	-
							Quincy	24	6815	6795	-20
							Palmyra	1	280	280	-
							Chapin	2	575	575	-
								62	17630	17880	250

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Swift & Company
403 lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(328)	28	9210					Mt.Ster.	1	320	320	-
							Jax	3	950	930	-20
							Bowen	17	5605	5510	-95
							Palmyra	10	3175	3190	15
							Palmyra	- 3	-740	-740	-
								28	9310	9210	-100
(327)	9S	2945					Barry	4	1110	1130	20
							DaCity	1	320	320	-
							DaCity	1	370	370	-
							Quincy	2	685	700	15
							Quincy	1	425	425	-
								9	2910	2945	35
(481)	38S	18290	Bush.	12	5700	5700	Barry	4	1980	2000	20
							Golden	16	7345	7440	95
							DaCity	5	2615	2650	35
							Quincy	1	500	500	-
								26	12440	12590	150
(618)	8S	4950	Bush.	1	640	640	Quincy	1	550	550	-
							Chapin	6	3725	3760	35
								7	4275	4310	35
	403	113800		36	11555	11555		367	100650	102245	1595

(2) Sorted from heavy pen to lite pen

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Swift & Company
December 28, 1955

			SORTED OFF		BALANCE TO SWIFT				
Place	Head	Weight	Head	Reweigh	Head	Buy Wt.	Reweigh	Gain	Remarks
Griggs.	179	42825	(A)130	30840	49	11985	12330	345	(A) Sorted off to CPV
Carthage	85	20040	(B) 63	12335	22	7705	7805	100	(B) Held over

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Griggsville)		
	179 - 42825	Purch
	130 - 30840	Reweigh
	49 - 11985	Balance
	49 - 12330	Reweigh
	345	Gain

if on 179 - 1.92 pr.hd.
if on 49 - 7.04 pr.hd.

Carthage)		
	85 - 20040	Purch
	63 - 12335	Reweigh
	22 - 7705	Balance
	22 - 7805	Reweigh
	100	Gain

if on 85 - 1.17 pr.hd.
if on 22 - 4.54 pr.hd.

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Swift & Company
Dec. 28, 1955
425 lot.

			Posted Markets				Country Markets						
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)		
(163)	32	5235					Rush.	10	1610	1640	30		
							Astoria	4	660	660	-		
							Carth.	4	615	615	-		
							Bowen	4	650	650	-		
							Media	7	1130	1200	70		
							Macon	3	470	470	-		
								32	5135	5235	100		
(220)	175	38585					DaCity	32	7520	7600	80		
							Media	11	2030	2050	20		
							Macon	104	21555	21965	410		
							Carth.	35	8600	8670	70		
							Carth.(Z)	- 7	-1700	-1700	-		
								175	38005	38585	580		
(247)	61	15120					Bowen	4	1060	1060	-		
							Macon	5	1210	1250	40	179-42825	345
							Grigg.	49	11985	12330	345		
							Grigg.(Y)	- 4	-1220	-1220	-		
							Grigg.(Z)	7	1700	1700	-		
								61	14735	15120	385		
(272)	33	9000					Astoria	9	2310	2300	-10		
							Carth.	6	1620	1620	-		
							DaCity	4	1125	1140	15		
							Media	14	3910	3940	30		
								33	8965	9000	35		
(304)	27	8215					Rush.	7	2120	2125	5		
							Astoria	4	1200	1200	-		
							Media	11	3350	3350	-		
							Bowen	1	320	320	-		
							Grigg.(Y)	4	1220	1220	-		
								27	8210	8215	5		
(354)	24	8505					Carth.	22	7705	7805	100		
							Macon	2	700	700	-	85-20040	100
								24	8405	8505	100		

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Swift & Company
425 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (loss)
(339)	22S	7475	Spr.	5	1780	1780	Rush.	2	705	700	- 5
							Astoria	3	1020	1020	-
							DaCity	3	865	880	15
							Bowen	2	600	620	20
							Media	1	325	325	-
							Macon	1	270	270	-
							Macon	4	1445	1515	70
							Carth.	1	365	365	-
								17	5595	5695	100
(395)	13S	5135	Spr.	9	3600	3600	Astoria	4	1535	1535	-
(460)	24S	11050					Carth.	1	415	415	-
							Rush.	3	1285	1300	15
							Astoria	5	2330	2330	-
							Carth.	1	500	500	-
							DaCity	1	480	480	-
							Bowen	6	2840	2860	20
							Media	2	855	855	-
							Macon	2	875	875	-
							Macon	3	1435	1435	-
								24	11015	11050	35
(533)	10S	5335					Astoria	6	3195	3200	5
							DaCity	1	530	530	-
							Media	2	1085	1080	- 5
							Macon	1	525	525	-
								10	5335	5335	-
(646)	4S	2585					Astoria	3	1940	1940	-
							Macon	1	645	645	
								4	2585	2585	
	425	116240		14	5380	5380		411	109520	110860	1340

(Y) Sorted out to heavy lot
(Z) Sorted out to Heavy lot

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Swift & Company
January 20, 21, 1956
581 lot.

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(147)	15	2205	Spr.	1	140	140	Griggs.	5	735	735	-
			Spr.	2	315	315	Palmyra	4	545	545	-
				3	455	455	Chapin	3	500	470	-30
								12	1780	1750	-30
(169)	48	8150	Spr.	3	470	470	Golden	3	510	510	-
			Spr.	9	1495	1495	Barry	9	1505	1500	- 5
				12	1965	1965	Mt.Ster.	19	3290	3325	35
							Media	5	850	850	-
								36	6155	6185	30
(218)	222	48495					Macon	17	3020	3100	80
							Bowen	8	1455	1500	45
							Mt.Ster.	77	16245	16720	475
							Mt.Ster.	10	1945	2000	55
							Grigg.	25	6085	6230	145
							Media	3	575	560	-15
							Macon	59	12530	12820	290
							Macon	16	3775	3800	25
							Astoria	7	1765	1765	-
								222	47395	48495	1100
(280)	107	30055					Macon	1	300	300	-
							Bowen	9	2455	2455	-
							Palmyra	17	4860	4900	40
							Barry	1	280	280	-
							Chapin	1	280	280	-
							Media	36	9830	9900	70
							DaCity	2	545	545	-
							Carth.	4	1130	1130	-
							Palmyra	22	6250	6375	125
							Macon	1	275	275	-
							Rush.	9	2455	2455	-
							Quincy	3	860	860	-
							Rush.	1	300	300	-
								107	29820	30055	235
(317)	27	8580					Chapin	4	1260	1260	-
							Media	20	6365	6365	-
							Palmyra	3	955	955	-
								27	8580	8580	-

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Swift & Company
581 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(336)	28S	9410	Spr.	1	320	320	Barry	8	2780	2880	100
							Grigg.	2	635	635	-
							DaCity	4	1355	1400	45
							Carth	2	710	710	-
							Quincy	4	1025	1075	50
							Astoria	1	335	335	-
							Astoria	6	1985	2055	70
								27	8825	9090	265
(391)	37S	14495	Spr.	13	4990	4990	Bowen	2	840	840	-
							Jax	1	385	385	-
							Chapin	2	755	755	-
							Media	3	1165	1165	-
							DaCity	1	390	390	-
							Grigg.	11	4490	4470	-20
							Quincy	4	1500	1500	-
								24	9525	9505	-20
(443)	34S	15095					Barry	8	3630	3700	70
							Carth.	1	410	410	-
							Jax	1	410	410	-
							Chapin	8	3315	3375	60
							Grigg.	2	855	855	-
							Media	8	3680	3770	90
							Palmyra	1	440	440	-
							Macon	1	440	440	-
							Rush.	2	860	860	-
							Astoria	2	835	835	-
								34	14875	15095	220
(491)	35S	17205	Spr.	3	1470	1470	Palmyra	3	1415	1415	-
			Spr.	5	2515	2515	Chapin	3	1400	1420	20
				8	3985	3985	Golden	11	5270	5390	120
							Griggs.	4	1970	2000	30
							Griggs.	1	510	510	-
							Quincy	5	2455	2485	30
								27	13020	13220	200

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Swift & Company
581 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(545)	168	8720					Chapin	5	2635	2655	20
							Carth.	1	565	565	-
							Rush.	10	5520	5500	-20
								16	8720	8720	-
(590)	128	7080	Spr.	2	1175	1175	Jax	3	1730	1700	-30
							Media	1	635	635	-
							Palmyra	1	590	590	-
							Golden	105	10 2950 5905	2980 5905	30
	581	169490		39	12890	12890		542	154600	156600	2000

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Swift & Company
January 27, 1956

Place	Head	Weight	Sorted off Head	Sorted off Reweigh	Balance to Swift Head	Balance to Swift Balance	Reweigh	Gain	Remarks
Media	125	28870	(A) 92	20220	33	8650	8850	200	(A) Car next day
Rushville	351	70655	(B)235	46470	116	24185	24395	210	(B) Held over to Sat.
Barry	68	15255	(C) 29	7195	39	8060	8200	140	(C) Sort out heavies to Cud.
Quincy	139	31440	(D) 94	21250	45	10190	10440	250	(D) Held over to Sat.
Quincy	189	41755	(E)118	26130	46 25	9695 5930	9800 6000	105 70	(E) Off to car

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Media
125 - 28870 Purch
92 - 20220 Reway
33 - 8650 Balance
33 - 8850 Reway
200 Gain

if on 125 - 1.6 pr.hd.
if on 33 - 6.06 pr.hd.

Rushville
351 - 70655 Purch
235 - 46470 Reway
116 - 24185 Balanceq
116 - 24395 Reway
210 Gain

if on 351 - .59 pr.hd.
if on 116 - 1.8 pr.hd.

Barry
68 - 15255 Purch
29 - 7195 Reway
39 - 8060 Balance
39 - 8200 Reway
140 Gain

if on 68 - 2.0 pr.hd.
if on 39 - 3.5 pr.hd.

Quincy
139 - 31440 Purch
94 - 21250 Reway
45 - 10190 Balance
45 - 10440 Reway
250 Gain

if on 139 - 1.7 pr.hd.
if on 45 - 5.5 pr.hd.

Quincy
189 - 41755 Purch
118 - 26130 Reway
81 - 15625 Balance
81 - 15800 Reway
175 Gain

if on 189 - .92 pr.hd.
if on 81 - 2.1 pr.hd.

Respondents' Exhibit 12
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Swift & Company
January 27, 28, 1956
861 lot.

			Posted Markets				Country Markets					
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)	
(151)	35	5310	Spr.	9	1345	1345	Barry	3	475	475	-	
							Jax	2	295	295	-	
							Astoria	1	160	160	-	
							Rush.	2	300	300	-	
							Jax	1	165	165	-	
							Bowen	12	1850	1815	-35	
							Mt.Ster.	3	425	425	-	
							Carth.	2	350	330	-20	
								26	4020	3965	-55	
(174)	45	7860	Spr.	11	1845	1845	Barry	6	1040	1055	15	
			Spr.	4	620	620	Jax	24	4200	4340	140	
				15	2465	2465		30	5240	5395	155	
(220)	75	16500					Rush.	75	16500	16500	-	
(213)	416	88820					Bowen	32	7100	7200	100	
							Bowen(Y)	-3	-900	-900	-	
							Bowen	5	950	1000	50	
							Mt.Ster.	1	185	185	-	
							Astoria	11	1970	2000	30	68-15255-140
							Barry	39	8060	8200	140	
							Barry	19	3485	3540	55	
							Jax	16	3390	3400	10	
							Jax	30	7495	7475	-20	
							Jax	23	4450	4400	-50	
							Decatur	12	2520	2550	30	
							Decatur	17	3810	3900	90	
							Decatur	9	1725	1750	25	
							Rush	116	24185	24395	210	351-70655-210
							Rush.(Z)	-75	-16500	-16500	-	
							Rush.	21	3845	3900	55	
							Quincy	45	10190	10440	250	
							Carth.	15	3540	3600	60	139-31440-250
							Quincy	25	5930	6000	70	
							Quincy	46	9695	9800	105	189-41755-175
							Jax	4	885	885	-	
							Jax	8	1585	1600	15	
								416	87595	88820	1225	

Respondents' Exhibit 12
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Swift & Company
861 lot. (Cont'd.)

			Posted Markets				Country Markets					
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)	
(259)	110	28575					Decatur	23	5750	5900	150	
							Media	33	8650	8850	200	125-28870-200
							Chapin	1	275	275	-	
							Rush.	23	6125	6100	-25	
							Rush.	2	560	560	-	
							Mt.Ster.	1	265	265	-	
							Bowen	27	6320	6625	305	
								110	27945	28575	630	
(295)	56	16535					Jax	10	2975	2985	10	
							Decatur	2	580	580	-	
							Media	2	575	575	-	
							Astoria	13	3705	3720	15	
							Carth.	20	6040	6100	60	
							Palmyra	3	870	870	-	
							Media	3	805	805	-	
							Bowen	3	900	900	-	
								56	16450	16535	85	
(326)	33	10765					Jax	5	1635	1650	15	
							Decatur	4	1355	1380	25	
							Media	14	4455	4500	45	
							Astoria	2	660	660	-	
							Palmyra	4	1285	1300	15	
							Palmyra	2	645	645	-	
							Chapin	2	630	630	-	
								33	10665	10765	100	

(Y) Sorted out 3 out to HB lot
(Z) Sorted for grade

Respondents' Exhibit 12
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Swift & Company
Jan 27, 28, 1956
861 lot

			Posted Markets				Country Markets				
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(325)	16S	5205					Barry	2	640	660	20
							DaCity	1	300	300	-
							Quincy	3	955	1000	45
							Chapin	1	230	230	-
							Palmyra	1	345	345	-
							Quincy	2	570	600	30
							Rush.	1	360	360	-
							Bowen	1	265	265	-
							Mt.Ster.	2	670	680	10
							Astoria	2	775	765	-10
								16	5110	5205	95
(392)	14S	5495					Barry	5	1975	2020	45
							Decatur	2	760	780	20
							Chapin	2	770	750	-20
							Chapin	1	395	395	-
							Quincy	2	770	770	-
							Bowen	1	390	390	-
							Mt.Ster.	1	390	390	-
								14	5450	5495	45
(438)	21S	2915	Spr.	4	1875	1875	Golden	1	480	465	-15
							Chapin	2	895	895	-
							Palmyra	7	2905	3000	95
							Golden	2	835	835	-
							Chapin	5	2145	2145	-
								17	7260	7340	80
(490)	25S	12265					DaCity	5	2540	2540	-
							Palmyra	6	2940	2965	25
							Astoria	1	460	480	20
							Quincy	10	4755	4830	75
							Rush.	2	935	935	-
							Barry	1	515	515	-
								25	12145	12265	120
(541)	6S	3250	Spr.	1	550	550	Quincy	1	540	540	-
							Rush.	1	540	540	-
							Mt.Ster.	3	1600	1620	20
								5	2680	2700	20

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Swift & Company
861 lot (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(636)	98	5730	Spr.	3	1995	1995	DaCity	3	1810	1850	40
							Golden	1	630	630	-
							Bowen	2	1235	1255	20
								6	3675	3735	60
	861	215525		32	8230	8230		829	204735	207295	2560

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Swift & Company
March 27, 1956

Place	Head	Weight	Sorted off Head	Sorted off Reweigh	Balance to Swift Head	Balance to Swift Balance	Balance to Swift Reweigh	Gain	Remarks
Baring	199	41165	(A)114	25180	20	3275	3340	65	(A) Sorted off for M&N
					24	4550	4715	165	
					41	8160	8400	240	
Macon	91	17690	(B) 56	11490	8	1580	1600	20	(B) Off for M&N
					27	4620	4770	150	

Baring	199 - 41165	Purch	
	114 - 25180	Reway	
	85 - 15985	Balance	
	20 - 3340	Reway	
	24 - 4715	Reway	
	41 - 8160	Reway	
	85 - 16215		
	470	Gain	

If on 199 - 2.3 pr.hd.
If on 85 - 5.5 pr.hd.

Macon	91 - 17690	Purch
	56 - 11490	Reway
	35 - 6200	Balance
	8 - 1600	Reway
	27 - 4770	Reway
	35 - 6370	
	170	Gain

If on 91 - 1.86 pr.hd.
If on 35 - 4.85 pr.hd.

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Swift & Company
March 27, 1956
351 lot.

			Posted Markets				Country Markets					
	Head	Weight	Point of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)	
(142)	21	2990	Bush.	14	1975	1975	Astoria	1	150	150	-	
							Macon	6	840	865	25	
								7	990	1015	25	
(163)	56	9150	Spr.	30	4800	4800	Baring	20	3275	3340	65	199-41165-65
			Bush.	6	1010	1010						
				36	5810	5810	Macon	1	310	310	—	
(201)	193	38940	Spr.	8	1440	1440	Decatur	21	4355	4500	145	
			Bush.	22	4205	4205	Decatur	14	3315	3400	85	
				30	5645	5645	Decatur	4	745	770	25	199-41165-165
							Baring	24	4550	4715	165	199-41165-240
							Baring	41	8160	8400	240	91-17690-20
							Astoria	22	4570	4650	80	
							Macon	8	1580	1600	20	91-17690-150
							Macon	1	180	180	-	
							Macon	27	4620	4770	150	
								163	32385	33295	910	
(332)	39S	12985	Spr.	7	2255	2255	Astoria	6	1535	1535	-	
			Bush.	13	4410	4410	Baring	13	4785	4785	-	
				20	6665	6665		19	6320	6320	-	
(391)	18S	7050	Bushn	18	7050	7050						
(437)	22S	9620	Spr.	9	3735	3735						
			Bush.	11	4900	4900						
			Bush.	2	985	985						
				22	9620	9620						
(567)	2S	1135	Spr.	2	1135	1135						
	351	81870		142	37900	37900		209	42970	43970	1000	

Respondents' Exhibit 12
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Swift & Company
April 16, 1956

			Sorted off		Balance to Swift				
Place	Head	Weight	Head	Reweight	Head	Balance	Reweigh	Gain	Remarks
Jax	124	26450	(A) 84	18835	40	7615	7900	285	(A) Sorted off for Heil
Macon	155	34770	(B)125	27590	16	3050	3200	150	(B) Off to Heil
					14	4130	4150	20	

Jax
124 - 26450 Purch
84 - 18835 Reway
40 - 7615 Balance
40 - 7900 Reway
285 Gain

If on 124 - 2.29 pr.hd..
If on 40 - 7.1 pr.hd.

Macon
155 - 34770 Purch
125 - 27590 Reway
30 - 7180 Balance
30 - 7350 Reway
170 Gain

If on 155 - 1.09 pr.hd.
If on 30 - 5.6 pr.hd.

Respondents' Exhibit 12
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Swift & Company
April 16, 1956
343 lot.

			Posted Markets				Country Markets					
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)	
(148)	7	1040	Spr.	2	285	285	Barry	3	460	470	10	
							Macon	2	285	285	-	
								5	745	755	10	
(163)	42	6850	Spr.	25	3955	3955	Macon	1	160	160	-	
			Spr.(A)	2	345	345	Barry	10	1715	1740	25	
				27	4300	4300	Jax	4	650	650	-	
								15	2525	2550	25	
(174)	15	2615	Spr.	12	2005	2005	Barry	3	610	610	-	
(203)	185	37645					Barry	89	18325	19000	675	
							Barry	17	3105	3105	-	
							Barry(B)	-3	-610	-610	-	
							Decatur	16	3285	3240	-45	
							Decatur	7	1265	1265	-	
							Macon	16	3050	3200	150	155-34770-150
							Decatur	3	505	545	40	
							Jax	40	7615	7900	285	124-26450-285
								185	36540	37645	1105	
(285)	32	9150					Jax	1	310	310	-	
							Palmyra	5	1420	1420	-	
							Palmyra	2	570	570	-	
							Quincy	10	2710	2700	-10	
							Macon	14	4130	4150	20	155-34770-20
								32	9140	9150	10	
(346)	6	2080					Jax	2	750	750	-	
							Quincy	4	1330	1330	-	
								6	2080	2080	-	
(348)	29S	10115					Decatur	1	320	320	-	
							Decatur	2	710	710	-	
							Decatur	5	2070	2100	30	
							Palmyra	11	3290	3360	70	
							Palmyra	3	1140	1140	-	
							Quincy	3	1010	1010	-	
							Quincy	2	755	755	-	
							Macon	2	720	720	-	
								29	10015	10115	100	

Respondents' Exhibit 12
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Swift & Company
343 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Point of Origin	Head	Buy Weight	Reway Weight	Gain (-Loss)
(438)	98	3950					Palmyra	4	1800	1800	-
							Quincy	5	2250	2150	-100
								9	4050	3950	-100
(490)	148	6860					Barry	1	510	510	-
							Decatur	4	2005	2005	-
							Palmyra	8	3765	3795	30
							Quincy	1	550	550	-
								14	6830	6860	30
(607)	48	2430					Decatur	3	1870	1870	-
							Palmyra	1	560	560	-
								4	2430	2430	
	343	82375		41	6590	6590		302	74965	76145	1180

(A) Fair quality
(B) Sorted out - rough

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Swift & Company
May 11, 1956
194 lot

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(302)	27	8155					Quincy	2	690		
							Barry	3	970		
							Macon	3	830		
							Grigg.	2	620		
							Rush.	1	305		
							Chapin	5	1530		
							Media	3	900		
							Palmyra	7	2000		
							Palmyra	1	310		
								27	8155		
(338)	278	9135	Bush.	1	300	300	Barry	3	945		
							Barry	3	1000		
							Quincy	3	830		
							Grigg.	2	525		
							Rush.	2	560		
							Chapin	1	330		
							Palmyra	11	3295		
							Palmyra	1	350		
								26	7835		(A) 1000
(369)	488	18695	Bush.	14	5550	5550	Golden	10	3810		
							Chapin	5	1925		
							Media	7	2640		
							Palmyra	4	1660		
							Macon	5	1985		
							DaCity	3	1125		
								34	13145		
(442)	328	14150	Bush.	8	3585	3585	Barry	7	3100		
							Grigg.	5	2180		
							Rush.	3	1295		
							Chapin	5	2230		
							Carth	4	1760		
								24	10565		
(488)	438	20995	Bush.	6	2970	2970	Golden	2	965		
							Rush.	29	14095		
							Rush.	1	515		
							Macon	2	1000		
							DaCity	3	1450		
								37	18025		

Respondents' Exhibit 12
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Swift & Company
194 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(532)	78	3730	Bush.	3	1625	1625	Grigg.	3	1550		
							Chapin	2	555		
								5	2105		
(587)	78	4110	Bush.	2	1180	1180	Rush.	5	2930		
(465)	3 Stg	1395	Bush.	2	995	995	Grigg.	1	400		
	194	80365		36	16205	16205		158	63160		(A) 1000

(A) Apparent error in addition when preparing invoice - sow loads made up late that nite & no reweigh made. Hogs billed at bought weight although all had been fed & watered all day.

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Swift & Company
May 22, 1956
400 lot

	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(145)	2	290	Spr.	2	290	290					
(165)	39	6445	Spr.	28	4535	4535	Quincy	2	330	340	10
							Palmyra	9	1480	1570	90
								11	1810	1910	100
(189)	21	3985	Spr.	4	800		Barry	2	370	385	15
			Spr.	10	1770		Mt.Ster.	5	845	885	40
				14	2570	2715		7	1215	1270	55
(265)	16	4255	Spr.	11	2860	2860	Quincy	1	265	280	15
							Baring	2	525	550	25
							Palmyra	1	280	290	10
							Mt.Ster.	1	275	275	-
								5	1345	1395	50
(327)	44	14430	Spr.	15	4920	4920	Quincy	6	1870	1900	30
							Astoria	1	305	305	-
							Mt.Ster.	22	7135	7315	170
								29	9310	9510	200
(345)	1048	35925	Spr.	28	7960	7960	Quincy	49	19250	19535	285
			Peo.	1	355	355	Quincy	-4	1900	-1900	-
			Pro.	10	3915	3915	Astoria	5	1355	1380	25
				39	12230	12230	Barry	1	315	315	-
							Palmyra	1	275	275	-
							Palmyra	7	1980	2000	20
							Palmyra	4	1470	1500	30
							Mt.Ster.	1	220	220	-
							Mt.Ster.	1	370	370	-
								65	23335	23695	360
(295)	458	17800	Spr.	36	13950	13950	Astoria	6	2325	2515	190
							Mt.Ster.	1	450	465	15
							Baring	2	830	870	40
								9	3605	3850	245

Respondents' Exhibit 12
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Swift & Company
400 lot (Cont'd.)

	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(443)	628	27480	Spr.	13	5405	5405	Barry	7	3025	2990	-35
			Bush.	11	4790	4790	Barry	-1	-315	-315	-
			Peo.	16	7690	7690	Quincy	8	3460	3400	-60
				40	17885	17885	Palmyra	8	3500	3520	20
								22	9670	9595	-75
(493)	368	17760	Spr.	16	7785	7785	Barry	1	495	485	-10
			"	5	2590	2590	Quincy	2	930	930	-
				21	10375	10375	Mt.Ster.	6	3125	3075	-50
							Palmyra	2	1010	995	-15
							Quincy	4	1900	1900	-
								15	7460	7385	-75
(543)	298	15770	Peo.	11	5520	5520	Mt.Ster.	9	5035	5230	195
			Peo.	9	5020	5020					
				20	10540	10540					
(660)	28	1320	Spr.	2	1320	1320					
	400	145460		228	81475	81475 81620		172	62785	63985	1055

(A) Hogs mixed in Spfld. yards - came thru
Jax & resorted

Respondents' Exhibit 12
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Swift & Company
October 4, 1956
96 lot.

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(315)	66S	20825	Bush.	22	7420	7420	Media	6	1765	1835	70
							Astoria	12	3050	3430	380
							Astoria	1	380	400	20
							Chapin	7	2110	2160	50
							Chapin	3	610	610	-
							Grigg.	2	410	410	-
							Quincy	1	290	290	-
							Quincy	2	800	800	-
							Barry(A)	13	4130	4570	440
							Barry	- 3	-1100	-1100	-
								44	12445	13405	960
(394)	17S	6710	Bush.	12	4760	4760	Chapin	2	810	850	40
							Barry	3	1100	1100	-
								5	1910	1950	40
(446)	6S	2680					Chapin	1	450	450	-
							Quincy	5	2230	2230	-
								6	2680	2680	
(499)	6S	2995	Bush.	4	1970	1970	Barry	1	485	485	-
			Bush.	1	540	540					
				5	2510	2510					
	1 Stg	410	Bush.	1	410	410					
	96	33620		40	15100	15100		56	17520	18620	1000

(A) Held over & resorted

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Swift & Company
January 5, 1957

			Sorted off		Balance to Swift				
Place	Head	Weight	Head	Reweigh	Head	Balance	Reweigh	Gain	Remarks
Griggs.	101	22630	(A) 63	15475	36	6845	7065	220	(A) Weighed off to S&B
					2	310	310	-	
Chapin	86	18265	(B) 54	12265	30	5695	5800	105	(B) For car shipment
					2	305	305	-	
Jax	76	15555	(C) 48	10375	15	2920	2980	60	(C) To Chapin for car
					13	2260	2260	-	

Griggs.
101 - 22630 Purch
63 - 15475 Reway
38 - 7155 Balance

36 - 7065
2 - 310
38 - 7375 Reway
220 Gain

if on 38 - 5.8 pr.hd.
if on 101 - 2.1 pr.hd.

Chapin
86 - 18265 Purch
54 - 12265 Reway
32 - 6000 Balance

30 - 5800
2 - 305
32 - 6105 Reway
105 Gain

if on 32 - 3.3 pr.hd.
if on 86 - 1.2 pr.hd.

Jax
76 - 15555 Purch
48 - 10375 Reway
28 - 5160 Balance

15 - 2980
15 - 2260
30 - 5240 Reway
60 Gain

if on 28 - 2.2 pr.hd.
if on 76 - .7 pr.hd.

Respondents' Exhibit 12
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Swift & Company
Jan. 5, 1957
682 lot.

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(333)	1038	34400	Bush.	20	5700	5700	Chapin	6	1970	2000	30
							Macon	5	1460	1500	40
							Chapin(A)	15	5700	5800	100
							Chapin(A)	- 2	- 520	- 520	-
							Andrew	3	900	900	-
							Barry	7	1860	1900	40
							Astoria	3	960	960	-
							Palmyra	1	320	320	-
							Quincy	1	340	340	-
							Chapin	2	750	775	25
							Barry	5	2150	2200	50
							Golden	2	650	675	25
							Colmar	1	335	335	-
							Colmar	1	350	350	-
							Media	1	335	335	-
							Media	8	2905	2930	25
							Grigg.	19	6535	7600	165
							Mt.Ster.	5	1150	1200	50
								83	28150	28700	550
(385)	258	9640	Peo.	11	4285	4285	Decatur	1	400	400	-
							Andrew	1	375	375	-
							Quincy	1	390	390	-
							Quincy	2	740	740	-
							Jax	4	1530	1550	20
							DaCity	5	1810	1900	90
								14	5245	5355	110
(433)	868	37320	Bush.	14	5915	5915	Macon	2	880	880	-
							Andrew	8	3505	3550	45
							Astoria	3	1295	1295	-
							Palmyra	6	2575	2635	60
							Rush.	1	440	440	-
							Quincy	15	6325	6400	75
							Jax	4	1750	1750	-
							Golden	21	9380	9440	60
							Grigg.	8	3195	3240	45
							Astoria	1	465	465	-
							Decatur	3	1310	1310	-
								72	31120	31405	285

Respondents' Exhibit 12
Page 39 of 41 pages

Swift & Company
682 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(491)	228	10805	Peo.	11	5405	5405	Macon	1	460	490	30
			Bush.	7	3455	3455	Palmyra	1	450	470	20
				18	8860	8860	Mt.Ster.	2	955	985	30
								4	1865	1945	80
							Jax	2	1050	1040	-10
(543)	578	30990	Peo.	15	8230	8230	Chapin	16	9115	9000	-115
			Bush	8	4295	4295	Chapin(B)	-2	-750	-750	-
				23	12525	12525	Palmyra	1	550	550	-
							Macon	3	1525	1500	-25
							Grigg.	1	480	480	-
							Astoria	2	1060	1050	-10
							Astoria	1	565	565	-
							Palmyra	3	1535	1500	-35
							Rush.	5	2525	2480	-35
							Rush.	1	535	535	-
							Quincy	1	515	515	-
								34	18705	18465	-240
(620)	158	9305	Bush.	6	3710	3710	Decatur	1	590	590	-
							Palmyra	1	625	625	-
							Quincy	1	625	625	-
							Jax	2	1375	1375	-
							Colmar	2	1180	1180	-
							Rush.	2	1200	1200	-
								9	5595	5595	
	1 Stg	215					Golden	1	215	215	-
	682	219420		95	42020	42020		587	175900	177400	1500

(A) Sorted out for butcher pen

(B) Resorted

Respondents' Exhibit 12
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Swift & Company
Jan. 5, 1957
682 lot.

	Head	Weight	Posted Markets Place of Origin	Posted Markets Head	Posted Markets Buy Weight	Posted Markets Reway Weight	Country Markets Place of Origin	Country Markets Head	Country Markets Buy Weight	Country Markets Reway Weight	Country Markets Gain (-loss)	
(154)	4	615					Chapin	2	305	305	-	
							Grigg.	2	310	310	-	86-18265
								4	615	615		101-22630
(173)	14	2430					Jax	13	2260	2260	-	
							Palmyra	1	170	170	-	
								14	2430	2430		76-15555
(210) M.T.	95	19950					Colmar	58	12550	12600	50	
							Colmar	35	6945	6945	-	
							Astoria	2	405	405	-	
								95	19900	19950	50	
(211)	154	32610					Decatur	1	250	250	-	
							Astoria	11	2760	2800	40	
							Astoria	25	5700	5810	110	
							Jax	15	2920	2980	60	76-15555 6.0
							Colmar	1	185	185	-	
							DaCity	9	2145	2160	15	
							DaCity	1	245	245	-	86-18265-105
							Chapin	30	5695	5800	105	
							Colmar	7	1625	1600	-25	
							Media	3	595	600	5	
							Palmyra	8	1560	1600	40	
							Grigg.	36	6845	7065	220	
							Media	3	535	560	25	
							Chapin	2	520	520	-	
							Quincy	1	230	230	-	
							Media	1	205	205	-	
								154	32015	32610	595	
(266)	32	8535					Decatur	11	2885	2850	-35	
							Decatur	2	565	565	-	
							Palmyra	3	810	810	-	
							Jax	2	595	595	-	
							Golden	14	3750	3715	-35	
								32	8605	8535	-70	

Respondents' Exhibit 12
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Swift & Company
682 lot. (Cont'd.)

			Posted Markets				Country Markets				
	Head	Weight	Place of Origin	Head	Buy Weight	Reway Weight	Place of Origin	Head	Buy Weight	Reway Weight	Gain (-loss)
(290)	45	13070					Jax	4	1090	1120	30
							Astoria	5	1400	1400	-
							Macon	3	905	920	15
							Andrew	3	900	900	-
							Astoria	2	605	620	15
							Palmyra	2	570	570	-
							Jax	7	2025	2060	35
							Quincy	1	310	310	-
							Palmyra	1	315	315	-
							DaCity	8	2285	2285	-
							Media	9	2570	2570	-
								45	12975	13070	95
(328)	29	9535	Peo.	3	1025	1025	Decatur	24	7840	7885	45
							Rush.	2	625	625	-
								26	8465	8510	45

Rs Ex 13

Rs Ex 13

Mid-West Order Buyers
Chapin Illinois
Feed Expense
1954-55-56-57

Year	Amount	
1954	4873379	367000
1955	5217196	
1956	6711652	
1957	4725145	

1955				
Jan	33450	7751565	33446	7788980
Feb	28733	6547425	28707	6614330
Mar	40565	9218235	40529	9279180
Apr	30017	6895175	29995	6991200
May	28486	6754240	28470	6804090
June	24031	5560400	23996	5604550
July	18564	4244465	18690	4296890
Aug	28116	6382575	28106	6454745
Sept	36084	8256065	36146	8288030
Oct	39411	9065370	39493	9175300
Nov.	46353	10824530	46117	10914240
Dec	48753	11352210	48509	11433330
Total	402563	92852095	402204	93644835
		23065		23263

Re Ex 14

Re Ex 14

JMB

3.18

BEST CO

Rs Ex 15
JMB
Rs Ex 15

1956	Cost of Sales Head	Cost of Sales Weight	Sales Head	Sales Weight	
Jan	45898	10476240	45936	10634100	
Feb	38929	8927210	38941	8937605	
Mar	53538	12108085	53436	12233895	
Apr	46242	10410005	46185	10490390	
May	38454	8698945	38433	8839325	
June	29677	6846595	29665	6945215	
July	28856	6663985	28812	6679440	
Aug	32378	7381990	32363	7420670	
Sept	35696	8041570	35690	8132370	
Oct	39407	8943745	39365	9036045	
Nov	49797	11548015	49793	11671845	
Dec	40263	9247665	40260	9364560	
Total	479135	109,294000 228.11	478879	110,385410 230.51	240

MID-WEST ORDER BUYERS

1957

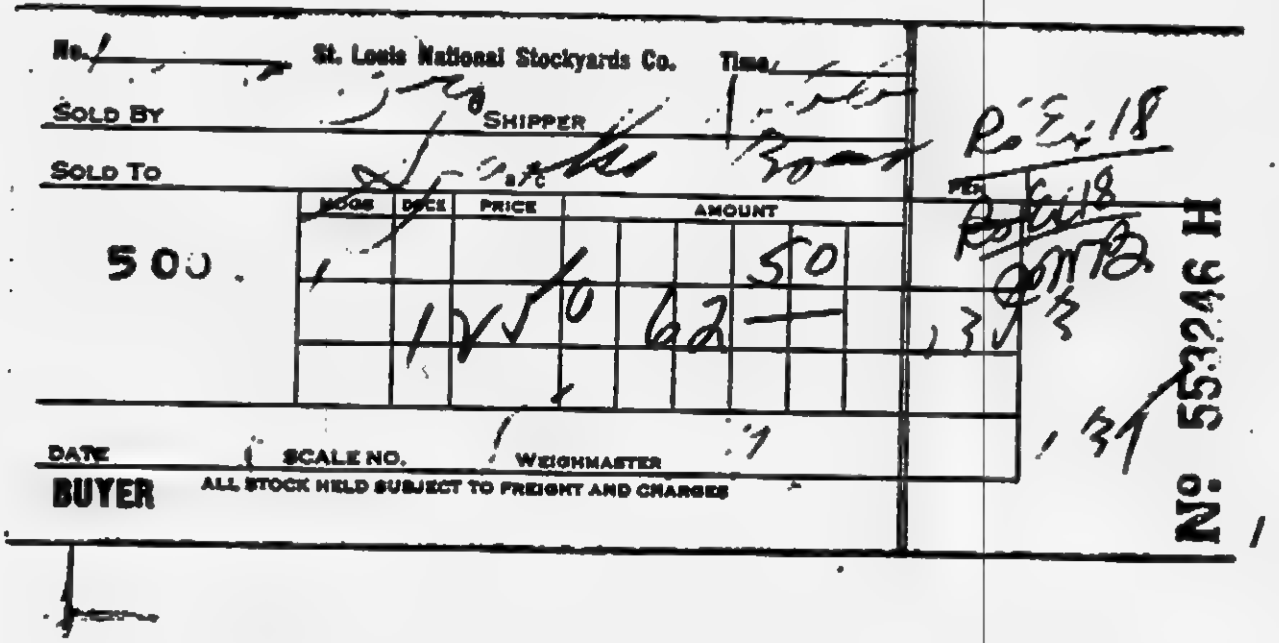
Ro Ex 16

Ro' Ex 16

JMB

	①	②	③	④	⑤
	PURCHASES			SALES	
1957	HEAD	WEIGHT		HEAD	WEIGHT
JANUARY	37,965	8,831,490		37,945	8,933,665
FEBRUARY	30,334	6,994,615		30,265	7,029,320
MARCH	36,490	8,404,990		36,543	8,428,640
APRIL	36,095	8,293,700		36,055	8,335,695
MAY	36,222	8,435,905		36,227	8,474,490
JUNE	25,478	5,997.935		25,454	5,997.070
JULY	28,805	6,637.375		28,846	6,659.005
AUGUST	31,302	7,029,400		31,266	7,054,905
SEPTEMBER	33,571	7,499,200		33,549	7,588,085
OCTOBER	42,376	9,802,410		42,353	9,776,465
NOVEMBER	41,468	9,583,630		41,454	9,651,495
DECEMBER	38,982	9,133,825		38,958	9,169,475
TOTAL	419,088	96,644,475		418,915	97,098,310
		230.6			231.8 1.2

BEST CO
from the ori



No. 1 **St. Louis National Stockyards Co.** Time

SOLD BY SHIPPER

SOLD TO a/c

500.

HOGS	DECS	PRICE	AMOUNT
1			50
	12	50	62 —

.13

Re Ex 18

DATE SCALE NO. WEIGHMASTER

BUYER ALL STOCK HELD SUBJECT TO FREIGHT AND CHARGES

1.31

No 553246 H

PY AVAILABLE
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United States Court of Appeals
[illegible]
FILED FEB 2[illegible] 1961
CLERK

BRIEF FOR PETITIONER

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),

Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,

Respondents.

BEN IVAN MELNICOFF
821 - 15th Street, N.W.
Washington 5, D. C.
Counsel for Petitioners

Washington, D. C. ROBERT I. THIEL Printer EX 3-0625

QUESTIONS PRESENTED

1. Whether transactions in hogs purchased by a partnership entity from farmer-herdsmen, and from persons who are registrants on posted stockyards, as that term was defined in the Packers and Stockyards Act, 1921, as amended, prior to September 2, 1958, are subject to the Act, when such transactions were not either entered into, or consummated on a posted stockyard?

2. Whether, in the circumstances set forth in question 1, such transactions are subject to the jurisdiction of the Secretary of Agriculture and the Packers and Stockyards Act, 1921, as amended?

3. Whether a partnership entity which does not do business on a posted stockyard can be found to have wilfully violated the Packers and Stockyards Act, 1921, as amended, on a record which consists principally of evidence that scale ticket records of the weight of such hogs on resale were not preserved, notwithstanding that such records were not required to be kept?

4. Whether in the circumstances set forth in question 3, the Secretary of Agriculture has jurisdiction to hear and determine such issue, pursuant to the Packers and Stockyards Act, 1921, as amended?

5. Whether the Secretary of Agriculture is excused from compliance with the jurisdictional prerequisite of Section 9(b) of the Administrative Procedure Act, 5 U.S.C. Sec. 1001, et seq., that an accused be given an opportunity to achieve compliance, merely by alleging in the initiating complaint, the violation to be "wilful"?

6. Whether, without waiving the jurisdictional questions hereinabove set forth, the record upon which the Secretary of Agriculture found the respondent to have wilfully violated the Packers and Stockyards Act, 1921, as amended, supports such findings, when such record discloses, among other things, the following:

(a) That the Secretary of Agriculture searched and seized the books and records upon which the findings of wilful violation were made, in violation of Constitutional guarantees;

(b) That the full and fair hearing required by the Packers and Stockyards Act, 1921, as amended, and the Administrative Procedure Act, 5 U.S.C. Sec. 1001, et seq., was not afforded petitioners;

(c) That the Secretary of Agriculture heard, over petitioners' objections, evidence of the contents of certain books and records, notwithstanding that such books and records were not in the hearing room, and no attempt was made by the Secretary of Agriculture to obtain the production of such books and records by subpoena or otherwise;

(d) That the Secretary of Agriculture received in evidence a so-called affidavit (Complainant's Ex. No. 42), notwithstanding that such evidence was incompetent and otherwise inadmissible, and

(e) That hogs, when fed and handled, as they are by Midwest Order Buyers, do in fact gain weight.

7. Whether, in the circumstances and in view of the facts as developed in this record, namely that petitioners' followed usual, customary and prevailing marketing practices in the marketing of hogs, at both country points and posted stockyards, the acts complained of, other than those involving "added weight", were in fact violations of Packers and Stockyards Act, 1921, as amended, and if violations, were they, in the circumstances, "wilful"?

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UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

No. 16,041

HARRY LEE SPARKS
and
REX WANDA SPARKS
(Presently doing business as H. L. Sparks and Company,
H. L. Sparks & Company of Bushnell,
and
H. L. Sparks & Company of Peoria),

Petitioners,

v.

EZRA TAFT BENSON,
as Secretary of Agriculture,
and
UNITED STATES OF AMERICA,

Respondents.

BRIEF FOR PETITIONER

JURISDICTIONAL STATEMENT

This cause was instituted before the Secretary of Agriculture by the issuance of an Order of Inquiry (Complaint), pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, Act of August 15, 1921, 42 Stat. 159, Act of May 5, 1926, 44 Stat. 397, Act of August 14, 1935, 49 Stat. 648, Act of August 10, 1939, 53 Stat. 1351, Act of June 19, 1942, 56 Stat. 372, Act of July 12, 1943, 57 Stat. 422, 7 U.S.C. §181, et seq., in which it was alleged that respondents below, petitioners here, had wilfully violated Sections 312(a) (7 U.S.C. §213(a), of the Packers and Stockyards Act, 1921, as amended.

Jurisdiction of this Court was invoked by a Petition for Review seasonably filed herein pursuant to Sections 1032 and 1034 of the Act of December 29, 1950, 64 Stat. 1129, 1130, 5 U.S.C. Secs. 1032, 1034.

STATEMENT OF THE CASE

This is a petition for judicial review of an order of the Secretary of Agriculture imposing a suspension for wilful violation of Section 312(a) of the Packers and Stockyards Act, 1921, as amended. Petitioners challenge this suspension.

The matter was instituted by the issuance by the Secretary of Agriculture, of an Order of Inquiry (Complaint) in which it was alleged that petitioners had wilfully violated the Packers and Stockyards Act, 1921, as amended, in the sale of hogs at a posted stockyard, St. Louis, and at various country points, which were not posted stockyards. Petitioners challenged the jurisdiction of the Secretary over the persons and transactions involved in the transactions concerning "added" weight, on the broad ground that they were not subject to the Act, as it read at the time the alleged violations occurred. As to the transactions alleged to have been committed at St. Louis, a posted stockyard, petitioners defended that such acts were non-wilful, they were given no opportunity to achieve compliance, and generally, that the acts complained of, were in fact usual and customary marketing practices and did not involve any loss or harm to any purchaser or any member of the public. The complainant, respondent here, voluntarily dismissed certain counts of the Order of Inquiry, and certain portions of other counts.

The matter was heard by an examiner of the Department of Agriculture, and from his adverse decision, an appeal was taken to the Judicial Officer of the Department of Agriculture. This petition for review is sought from his ruling imposing a suspension period.

Petitioners are dealers in hogs. The partnership entity, known as Midwest Order Buyers, transacted business solely at country points, not posted stockyards. A partnership entity also transacted business at the St. Louis terminal market, a posted stockyard.

Midwest Order Buyers maintained its offices at Chapin, Illinois. The various country buying points were in frequent communication with this office, reporting on purchases of hogs, their condition, and market prospects for the day. As the hog inventory built up hourly, it was matched against orders for hogs which were received at both Chapin and St. Louis. Toward the end of the day, hogs were moved between the various country points in order to match an order. When a sufficient number of hogs to make up an order had been assembled, they were moved either by truck or rail to the packer-purchaser. The invoice was made in Chapin, Illinois, and charged the poundage as determined by the weight of the hogs either on a reweigh (having been weighed at time of purchase, weighing at time of sale was a "reweigh"), or by the weight reflected on the scale ticket made at time of purchase, a practice which was permissible since petitioners were dealers.

As the hogs were purchased, the purchase weights were recorded both at the point of purchase, and at the Chapin office, to which they were telephoned. When the hogs were sold they were weighed again, as above indicated, and these weights too were telephoned to Chapin, and were used in compiling the invoice. The violations alleging "added" weight consist of shipments of hogs which were in excess of the purchase weights. Because no scale ticket evidence of such reweighs were kept by Midwest Order Buyers, it was alleged that such weights were false, and arbitrarily added. Petitioners denied and continue to deny such allegations, and have asserted and have proved, it is submitted, that the invoice weights were true weights, and that the absence of scale tickets was due only to the fact that no statute, rule or regulation required that such scale tickets be kept. Moreover, petitioners have asserted and continue to assert, that since September 2, 1958, when country points by an amendment to the Act became subject to the jurisdiction of the Secretary of Agriculture, when scale tickets have been kept, their hogs have shown the same rate of gain. This is an assertion that is subject to the official check of the Secretary of Agriculture. It could not be made if it were untrue.

The Complaint (Order of Inquiry) contained allegations of other violations. These concerned market practices and did occur on a posted stockyard as that term was defined prior to September 2, 1958. As to these, petitioners offered explanations which, at the least, negatived wilfullness, and entitled them to the protection of Section 9(b)(3) of the Administrative Procedure Act. This opportunity to achieve compliance was not afforded petitioners.

One other type of allegation remains to be mentioned. In the case of one, or at most two packers, summary scale tickets were submitted. The packer knew that these were summaries and wanted them only for bookkeeping purposes. Moreover, this practice has been approved by the Secretary of Agriculture, subject only to the qualification that the figures be handwritten instead of stamped on a scale. Otherwise, the practice is unchanged.

This matter came on for hearing, was heard, and the customary and prescribed administrative remedies were followed and exhausted. From an adverse decision by the Secretary, this petition for review has been filed and these proceedings had.

STATUTES INVOLVED

Packers and Stockyards Act of 1921, as Amended.

TITLE III — STOCKYARDS.

Sec. 302. (a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passageways, is less than twenty thousand square feet.

* * *

Sec. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist.

* * *

Act of July 12, 1943, Public No. 129, 78th Congress, Ch. 215, §1, 57 Stat. 422, 7 U.S.C. §204.

". . . hereafter . . . whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. * * *"

Act of June 11, 1946, c. 324, Sec. 9, 60 Stat. 242.

> In the exercise of any power or authority —
>
> * * *
>
> (b) . . . Except in cases of willfulness . . . no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements. . . .

SUMMARY OF ARGUMENT

1. The Packers and Stockyards Act, 1921, as amended, prior to September 2, 1958, was confined strictly to transactions in the stream of interstate commerce which were consummated on posted stockyards. The acts complained of in this proceeding were performed by Midwest Order Buyers, a partnership entity, located at Chapin, Illinois, which is not a posted stockyard. Midwest Order Buyers, during the period involved, was not and could not be either registered under or subject to the Packers and Stockyards Act, 1921, as amended. Midwest Order Buyers purchased hogs from farmer-herdsmen, at one or more of their several country point buying stations, located in south central Illinois. Midwest Order Buyers also purchased hogs from persons who were registered on posted stockyards. In turn, Midwest Order Buyers resold these hogs to packer-purchasers. In these circumstances, the Secretary of Agriculture has no jurisdiction over these transactions or the persons performing them.

2. The evidence on which the Secretary of Agriculture relied was the failure of Midwest Order Buyers to preserve scale tickets of the sale weights of hogs, notwithstanding that such records were not required to be kept. The record shows that such hogs were reweighed and that reweigh scale tickets were made, and that such reweigh scale weights were communicated to the Chapin office of Midwest Order Buyers, and were the weights involved to the packer-purchasers. Thereafter, the reweigh

scale tickets were kept only for short periods of time, if kept at all. The Secretary of Agriculture knew of this practice.

In these circumstances, the evidence upon which the Secretary of Agriculture relied was wholly the failure of Midwest Order Buyers to produce scale tickets to sustain its invoice weights.

3. Wilfullness, either as prescribed in Section 9(b) of the Administrative Procedure Act, or as a prerequisite to the imposition of punishment under the Packers and Stockyards Act, 1921, as amended, was not in fact present in any of the transactions involved, or indeed, in any of the business conducted by the petitioners. It will be noted that petitioners stress the presence of wilfullness as a jurisdictional requirement imposed by Sec. 9(b) of the Administrative Procedure Act, and as a standard of conduct, measuring whether an administrative sanction may be or should be imposed. It is petitioners' position that such classification stems from the source as well as the end sought to be achieved by the administrative process.

4. The evidence upon which the Secretary of Agriculture acted was not probative and resulted in a denial to petitioners of the full and fair hearing to which they, as a matter of law, were entitled.

ARGUMENT

I

NEITHER THE PERSONS NOR THE TRANSACTIONS INVOLVED IN THE "ADDED WEIGHT" ALLEGATIONS IN THE ORDER OF INQUIRY WERE SUBJECT TO THE JURISDICTION OF THE SECRETARY OF AGRICULTURE.

When this is read, and the argument heard, 40 years will have elapsed since the enactment of the statute upon which this cause is based. Time is an indicia, but not a measure, of the circumstances which contribute to the significance of the 40-year period. The significance is to be found rather in the shift in marketing of hogs, and other livestock, and, it is in this change that the seeds of this controversy are to be found.

In 1921, the railhead was the only place at which a livestock market could be located. So true was this that "terminal market" and "posted stockyard" were virtually synonymous.

But, in the 40 years that have gone by, the conquest of distance, and of time itself, resulted in the conquest of monopolistic advantage once enjoyed by the terminal market — posted stockyard.

Harry Lee Sparks and Midwest Order Buyers kept pace with this movement.

Harry Lee Sparks established Midwest Order Buyers, and the country point buying stations, in order to take the market to the farmer-herdsmen.

Daily, at the several country points, individual farmers brought and bring in their hogs for sale to Midwest Order Buyers, as few as one or two at a time in a pick-up truck — as many as more in larger trucks. At each of these country points, for the adults there is coffee and for the children, for coming to market is a holiday for them, there is soda pop. The farmer sees his hogs weighed. He is paid the current market price, the price which he hears quoted on the radio, and sees on television, and he is paid at once, and the take-home price is not lessened by an agent's commission and the numerous other posted stockyard charges.

Because Midwest Order Buyers took the market to the country, Midwest was in a position to purchase a large number of hogs. And, being a purchaser of a large number of hogs, Midwest Order Buyers is a large seller of hogs to packer-purchasers, all over the United States.

But, it is to be noted and stressed, Midwest Order Buyers is not registered under the Packers and Stockyards Act, and was not required to be registered thereunder, for the plain, simple and obvious fact that Midwest Order Buyers did not do any business on a posted stockyard.

This Department knew of the existence of Midwest Order Buyers, knew of its functions, and never protested its organization, existence, activity, and never, at any time, informed anyone that it considered Midwest in any way involved in the activities of any of the posted yard entities. In fact, the manner in which the investigation, upon which this proceeding was predicated, was instituted, discloses emphatically that the Department of Agriculture, while fully aware of the establishment, existence, and function of Midwest, at no time ever believed its activities to be subject to the Act.

It is significant that Midwest is now held by the Department to be subject to the registration provisions of the Act, as amended September 2, 1958. If, as concluded here, Midwest is only the agency of a registrant, why is it subject to registration under the Act as amended? The Department cannot hold, at one and the same time, that Midwest is not an entity, but an agency of an entity already registered, and that it is an entity, subject to registration, under the amendment which was sponsored by the Department of Agriculture, for the reason that the Act, prior to amendment, did not cover country points. (House Report No. 1048, 85th Cong., 1st Sess., 5, 6, 8 and 9; Tr. 5-19). Midwest is either one or the other. It cannot, in fact, be both.

Moreover, during the period involved, the activities of Midwest Order Buyers was at all times subject to the Federal Trade Commission (5 U.S.C. Sec. 41, et seq.). The legislative history of the September 2, 1958, amendment is explicit on this point.

Thus, Earl L. Butz, Assistant Secretary of Agriculture, testified before the House Committee on Agriculture, which was considering the legislation which eventually was enacted on September 2, 1958, as follows:

> "Mr. Butz. . . . At the present time these people who operate in interstate commerce on nonposted yards, as I understand it, are subject to the supervision of the Federal Trade Commission.
>
> "As I understand it, the intent of this amendment is to transfer that to the Department of Agriculture.
>
> "The only additional thing that I can see that would be involved might be the registration of those dealers. As I understand it, the Federal Trade Commission does not now require registration." (Hearings, Committee on Agriculture, House of Representatives, 314-15)

Assistant Secretary of Agriculture Butz spoke from knowledge. In a colloquy with Congressman Poage, vice-chairman of the committee, Mr. Butz had this to say concerning jurisdiction over non-posted stockyards:

> "Mr. Butz. . . . Just a case or two to illustrate. At the present time we have authority to regulate trade practices on the posted yards. I think, for example, of an incident that occurred last autumn in a midwestern market where we issued a cease-and-desist order against a buyer on the market, a large buyer on the market.
>
> "We put him off the market. He went out to some non-posted yards. He continues to operate. He is completely outside our jurisdiction. He may or may not be doing the same malpractices which resulted in a cease-and-desist order. That we do not know. We have no way of finding out. We have no way of regulating." (Hearings, Ibid., p. 317)

At another point in the hearings, in the presence of Mr. David M. Pettus, Director, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, the complainant here, and Charles W. Bucy, Assistant General Counsel, United States Department of Agriculture, the following colloquy ensured between Assistant Secretary of Agriculture and Vice-Chairman Poage:

> "Mr. Poage. Mr. Butz, if I understand it, all this amendment does is to take jurisdiction of the yards of less than 20,000 feet which is now in the hands of Federal Trade - and I hope the members will get this; everybody has asked it a dozen times - but am I not right in saying that under the present law, all of the yards of less than 20,000 square feet - and that is about half an acre - all of the yards of less than 20,000 square feet are under the exclusive jurisdiction of the Federal Trade Commission.
>
> "That is right, is it not?
>
> "Mr. Butz. Yes, if they are in interstate commerce, they are.
>
> "Mr. Poage. They are not under anybody's jurisdiction if they are not?
>
> "Mr. Butz. That is right.
>
> "Mr. Poage. You have no jurisdiction of a yard under 20,000 square feet today do you?
>
> "Mr. Butz. That is correct.
>
> "Mr. Poage. Whethere (sic) it is in interstate commerce or on the moon, you have no jurisdiction of a yard of less than 20,000 square feet do you?
>
> "Mr. Butz. No, sir.
>
> "Mr. Poage. The Federal Trade Commission does have jurisdiction over them?
>
> "Mr. Butz. Yes, sir." (Hearings, Ibid., 316).

Earl W. Kintner, Esq., then general counsel and now chairman of the Federal Trade Commission, testified at this hearing on the question of jurisdiction, as follows:

> "The Chairman. . . . If a violation of the law should occur on an (sic) nonposted stockyard, above or below 20,000 feet, would your agency have any responsibility in connection with the violation occurring on those yards?
>
> "Mr. Kintner. We would, sir, provided interstate commerce were involved . . ." (Hearings, Ibid., 233).

It is abundantly clear, therefore, that the Act, prior to its amendment on September 2, 1958, did not regulate the activites of Midwest Order Buyers. Clearly, the Federal Trade Commission was charged with this function. Both the Department of Agriculture and the Federal Trade Commission acknowledged the existence of this jurisdiction. The jurisdiction of the Department of Agriculture to issue this complaint in October, 1957, was clearly denied by that Department and the Federal Trade Commission in July, 1957. This complaint is aptly described by the following statement which appears in House Report No. 1048, 85th Congress, 1st Session, at page 6:

> "It appeared to the committee that most of the problems in connection with the Packers and Stockyards Act arise very simply from the fact that we are undertaking to apply to 1957 commercial and business conditions a law which was designed to be applied to the conditions prevailing in 1921."

II

THE WEIGHT AT WHICH THE HOGS WERE INVOICED TO PACKER-PURCHASERS WAS DETERMINED BY A SCALE WEIGHING AND A SCALE TICKET.

The English language is at the one and same time a delight and a despair. In a few sentences, Churchill rallied a nation, and perhaps a world. Robert E. Lee, at Appomattox, gently sutured a severed nation. While hardly rising to the dignity of these events, the curious manner in which this matter appears to turn on the words "Added" and "Gained" as used with the word "weight," prompts the feeling that words must be respected. Thus, the gravamen of this case may rest on whether the evidence points to "Added Weight," as the Secretary of Agriculture contends," or "Gained Weight," as the petitioners assert.

The Secretary instituted an investigation into the affairs of registered entities, insofar as they concerned the affairs which occurred on the posted stockyards. To this end, correspondence ensued between the

Secretary's representative and the petitioners' representative, Joseph H. Gilby (Petitioners' Exh. 2, Tr. 277; Petitioners' Exh. 3, Tr. 467. Note, Tr. 467, line 13, should be "January," not "April").

The circumstances and atmosphere of the investigation were elicited, after much probing on cross-examination of the witness Sherman who testified for the government on this phase of the matter. The following colloquy is illustrative:

> "Q. Did anyone ever mention to you that there was an understanding with the respondents as to what records you were permitted to consult?
>
> "A. Not that I know of. I believe Mr. Hopper had obtained consent prior to Mr. Smith's going there and Mr. McCoy.
>
> "Q. You believe now that Mr. Hopper had obtained consent before Mr. Smith and Mr. McCoy went there, is that right?
>
> "A. That's correct.
>
> "Q. Upon what do you base that belief?
>
> "A. I believe Mr. Hopper sent us a letter.
>
> "Q. Mr. Hopper sent you a letter?
>
> "A. Stating that he had requested the permission from Mr. Sparks.
>
> "Q. Stating he had gotten permission from Mr. Sparks?
>
> "A. Yes, sir." (Tr. 247)

This letter (respondents' Exhibit 2[Tr. 277]) which this witness said was the "permission," the "consent," was the letter written by G. H. Hopper, District Supervisor, Packers & Stockyards Branch, at Chicago, with copies to D. L. Bowman, of the Washington Office, and J. A. Sands, Supervisor of the National Stockyards, in which a request is made, not a consent given. And, on January 28, 1957, subsequent to the letter of December 17, 1956, and respondent's reply to this letter, dated January 14, 1957, the witness Sherman appeared at Chapin, Ill., to conduct the investigation. This chronology is significant.

The witness Sherman testified on cross-examination that "Mr. Bowman . . . was in our St. Louis office sometime prior to January 28, shortly before . . . and he asked me to go to Chapin and make a trade practice audit of the books and records there as it pertained to purchases and sales from the posted stockyards of Springfield, Peoria and Bushnell" (Tr. 239). This is the same Mr. Bowman to whom Mr. Hopper had addressed a copy of his letter of December 17, 1956. This order to Mr. Sherman apparently originated with Mr. Lee Sinclair of the Washington office. (Tr. 132-133)

The witness Sherman was evasive as to whether there had been a reply to the letter of December 17, 1956 (Tr. 249-250) but finally concluded that he had not seen the reply (Tr. 251). The reply to this letter, dated January 14, 1957, and received by Mr. Hopper, the addressee, on January 17, 1957, was admitted in evidence as respondents' Exhibit 3 (Tr. 467; Note: Tr. 467, line 13 "April" should be "January").

Thus, prior to the initiation of Sherman's investigation, an objection had been made to the investigation as proposed in the letter of December 17, 1956, and that objection was formalized, after informal discussions, by a letter dated January 14, 1957, which was received by Mr. Hopper, in his official capacity on January 17, 1957, well in advance of the time when Mr. Bowman directed Mr. Sherman to go to Chapin. This is the record.

Since no objection had been voiced by Hopper to the letter of January 14, 1957, it was assumed that the conditions laid down in that letter were acceptable. It was on these terms and on this understanding that the doors and books were open to complainant. If complainant disagreed with these conditions, it should have communicated this disagreement to Harry L. Sparks & Co. and subpoenaed the records. Confronted with a subpoena, an opportunity would have been afforded to challenge and seek a judicial determination of the rights involved. This, the complainant did not do.

Moreover, complainant did not subpoena the books and records of respondents for production at the hearing (Tr. 67), although challenged by respondents to do so (Tr. 63-6). Obviously, complainant did not dare risk a direct challenge to its bald and bold invasion of respondents' rights. The examiner put his seal of approval on this outrageous procedure by admitting complainant's Exhibits 1 and 2 over respondents' strenuous objections (Tr. 70-75), which the examiner overruled (Tr. 75-6). This ruling, it is submitted, constitutes reversible error.

In sum, the record is clear that respondents challenged complainant's visitorial powers at the outset. Complainant refused to meet this challenge. Slyly, it manipulated its staff to bury the challenge. Simple justice required a straight-forward answer to the letter of January 14, 1957. Simple justice required the presence in the hearing room of the books and records relied upon by complainant. Berthold-Jennings Lumber Co., et al. v. St. Louis, I. M. & S. Ry. Co., et al., 80 F. (2) 32, 44, 8th Cir., 135, cert. den. 297 U.S. 715. None of these simple and required procedures were followed.

The testimony of the witness Sherman was relied upon almost exclusively to conclude that petitioners "added" weight. It is in order, then, to examine this testimony, and particularly, the conclusions.

One of these transactions, as alleged in the Order of Inquiry, is illustrative of all phases of this inquiry to determine whether weight was "added" or "gained."

In paragraph IV of the Order of Inquiry, it is alleged that Midwest Order Buyers, on March 29, 1956, sold 551 hogs to St. Louis Independent Packing Co.; that the purchase weight of these hogs was 141,440 pounds that the invoice weight was 143,510 pounds, and that the resultant difference (143,510 pounds minus 141,440 pounds) 2,070 pounds, is "added" weight. This is error.

Respondents' Exhibit 4, sheets 2, 3, and 4, analyzes this transaction, relying on the precise record on which complainant rests (See, e.g., complainant's Exhibits 3, 4, 5, and 6). Sheets 3 and 4 of respondents' Exhibit 4 shows every item on the memorandum book upon which complainant also relied, pertaining to this March 29, 1956 transaction.

Both complainant and respondent agree that 18 hogs on this invoice originated at Springfield, a posted stockyard. These 18 head were originally a part of three separate drafts, of four hogs (on sheet 3), four and 10 hogs (on sheet 4).

Both complainant and respondents further agree that the remaining 533 hogs involved in this transaction, originated at several country points. All these points and the number of hogs originating at each, are specified on sheets 3 and 4.

The parting of the ways comes only when the respondents continue on, to show the origin of each of the 533 country point hogs. Complainant stops short - and in so doing, commits fatal error.

Respondents show that of the 533 country point hogs, 194 head were a part of larger drafts purchased at country points. These particular purchases, four in number, appear on sheet 2 of respondents' Exhibit 4. There is sound reason for this portrayal. For, unless this analysis is made, the gain in weight on the hogs which moved to St. Louis Independent Packing Co. cannot be accurately determined. In fact, unless this procedure is followed, an inaccurate and highly misleading gain in weight is reflected.

Thus, respondents' Exhibit 4, sheet 3, shows that 311 hogs (second item) are a part of the 551 country point hogs. All of these 311 hogs came from the country points listed immediately to the right of the 311 figure. It will be noted that 136 hogs are shown in this column as having originated at "Ru" (Rushville), a country point. These 136 hogs, in turn, were a part of an original purchase, at Rushville, of 239 hogs. Therefore, in order to obtain the correct gain in weight on these 136 head, the total sales weight for the entire 239 must be determined. This is simply obtaining the "cost weight."

The correctness of this procedure, and the resultant error realized when this procedure is not followed, is quickly and clearly shown on sheet 2 of respondents' Exhibit 4. The first line on sheet 2 shows the purchase of the 239 hogs at Rushville, at a total purchase weight of 51,025 pounds. Of these 239 head, 103 were sorted off, reweighed, and sold to purchasers other than St. Louis Independent. The reweigh weight of these 103 head was 21,760 pounds.

The remaining 136 head were sold to St. Louis Independent. The reweigh weight of these 136 head was 29,875 pounds.

Adding the two reweighs, 21,760 pounds for the 103 head sold to others, and 29,875 pounds for the 136 head sold to St. Louis Independent, gives a total of 51,635 pounds, the reweigh invoice weight of the 239 hogs, as determined by reweighs.

The total buy weight for the 239 head was, as shown on sheet 2 of respondents' Exhibit 4, 51,025 pounds. Subtracting this buy weight from the reweigh sales weight, gives a difference of 610 pounds, the total gain in weight on 239 hogs, or about 2.5 pounds per hog.

The complainant, however, having stopped short as above indicated, put this 610 pound gain only to the 136 hogs sold to St. Louis Independent, and not on the entire 239 hogs, where it rightfully belongs. Obviously, the gain per hog is greater when 610 pounds are allocated to 136 hogs, instead of to 239 hogs.

This procedure must be followed in computing the gain per hog on the penultimate figure on the 311 lot on sheet 2, "Go 46" (Golden) which was a part of an original purchase of 91 hogs; in computing the gain per hog in the item "Jax 8" (Jacksonville), which is a part of the 33 lot, and which was a part of an original purchase of 55 hogs, and in computing the correct gain per hog on the final item in the 33 lot "Pa 4" (Palmyra), and the "Pa 4" (Palmyra) item in the 20 lot. Both of these items were a part of the same original purchase at Palmyra, of 90 hogs. The complete analysis of all these items is reflected on sheet 2 of the respondents' Exhibit 4.

As the witness Gilby testified, these items all appeared on the memorandum book upon which complainant relied. Complainant amplified its summary depiction of this book, as shown on its Exhibits 3, 4, 5, and 6. Its fault, however, was in not copying everything, and misinterpreting what it did copy.

The necessary result of complainant's failure completely to analyze the figures it saw and copied is a completely distorted reflection showing gain per hog as much as four times the actual gain. In these circumstances, complainant concluded that the invoice weights were inaccurate — a conclusion that is as false as the premise upon which it was based, and as false as the method by which it was determined.

The underlying and basic fault of this conclusion and Proposed Findings of Fact 19 and 20, from which it flows, is that they are grounded on the erroneous and completely unsubstantiated premise that hogs, as fed and handled by Midwest, cannot gain weight. This is the basic and predetermined conclusion upon which the complaint was prepared, this proceeding instituted, and upon which the examiner made his proposed findings. The findings which reflect this predetermined premise are not based on any evidence, much less substantial evidence. Moreover, all the evidence of record squarely contradicts this predetermination and the resultant findings.

As complainant's proof developed, the pattern was obvious. The invoice weight was greater than the purchase weight. Therefore, the difference was "added weight."

That Midwest, prior to resale, fed and handled its hogs, that the invoice weights were determined by reweights, was ignored both by the complainant and the examiner.

That informed witnesses testified to these facts was ignored.

Testimony which, by law, is entitled to great weight, was swept aside as non-existent.

Carefully prepared and painstakingly explained exhibits, which precisely documented each hog in every transaction, and which proved that in fact no weight was added, was apparently not even read, and if read, was not read understandingly.

The discouraging truth is that these Proposed Findings of Fact disclose that neither the examiner nor the complainant understood the testimony, that, deafened and blinded by the predetermination that hogs cannot gain weight, no one in fact either heard or read the evidence which contradicted this predetermination and gave the lie to complainant's allegations.

It was early realized that the real issue here was this predetermination that hogs cannot gain weight. For that reason, this issue was squarely met, head-on. Respondents did not, as they could have with all propriety, rely on the fact that complainant had not borne its burden of proof. Instead, respondents met this issue with candor and forthrightness, and willingly assumed a burden which was not rightfully theirs.

The basic fact, that hogs fed and handled as the record shows they were in this matter will and do and did gain weight, is supported by a simple but strong fact, that Midwest expended, and continues to expend, large sums for feed. As shown on respondents' Exhibit 13, the amounts spent for feed for the years 1954-57, were as follows:

Year	Amount
1954	$48,733.79
1955	52,171.96
1956	67,116.52
1957	47,251.45

The unanswered question - unanswered by either complainant but answered by the respondents - why make these sizable expenditures for feed, if a gain in weight is not realized? If a consequent gain on the scale did not follow the consistent feeding practice, respondents could have relieved itself of this outlay. However, the truth is that weight is gained by the hogs as a result of the feeding ahd handling, the expenditure for which is shown on respondents' Exhibit 13.

The results of the feeding and handling are impressively shown on respondents' Exhibits 14, 15 and 16. These exhibits show the average gain in weight per hog for the years 1955, 1956 and 1957. These exhibits speak for themselves and are eloquent. They show that respondents sold almost a half-million hogs per year, and that the average gain per hog for these years ranged from 1.2 pounds to 2.4 pounds per hog - an average gain similar to that reflected on respondents' Exhibits 4-12, which reflect the transactions set forth in Proposed Finding of Fact 20. The "logical conclusion," to borrow a phrase from Proposed Finding of Fact 19, is obvious.

Hogs gain weight when fed and handled.

The hogs specifically involved in the transactions involved in this proceeding, those reflected in Proposed Findings of Fact 19 and 20, gained weight.

This gained weight, as determined by reweighs in each and every instance where a weight other than the purchase weight was used (and the use of such purchase weight is perfectly permissible and proper) was the weight invoiced by Midwest to the packer-purchaser.

But respondents do not rely exclusively on their truthful and documented experience urged in reply to the violations alleged in the complaint. More recent experience, experience reflecting a period subsequent to September 8, 1958, when the act was amended to govern transactions at country points, is informative, persuasive, and corroborative. For the year 1959, during which the amended act was in effect, Midwest, on a comparable gross business, realized a net average gain per hog of 3.05 pounds. This is a gain in weight realized under complainant's supervision. The method of doing business was unchanged, and the results were unchanged. A gain in weight - not added weight - was realized.

It is submitted, therefore, that the foregoing analysis discloses the basic fault in the Secretary's methodology, the resultant fault in his conclusions, and moreover, discloses affirmatively, that the weight reflected on the invoice was in fact, "gained", and not "added" weight.

III

WILFULLNESS, AS A JURISDICTIONAL PREREQUISITE, WAS NEITHER FOUND, NOR PRESENT; HENCE THE ORDER OF SUSPENSION MUST FALL.

"Wilfullness" is a word of many arts — and its use is an art itself. The law-learning of this one word is abundant and alluring. The temptation is great to catalogue, to analyze and to attempt to synthesize. Limitations of time, space and reader patience, however, are effectual curbs. Thus, the field, now the furrow.

The word "wilful" appears to have its source in the desire to express a planned course of action. This, it is submitted, is the common ground upon which all definitions and meanings meet. But, this meeting is of short duration, and the ensuing journey is a devious one.

Thus, it appears to be well decided that there is a sharp distinction between "wilful" as used in a criminal statute (United States v. Murdock, 290 U.S., 369(1933), United States v. Spies, 317 U.S. 490 (1943)), and that term as it is used in a so-called administrative statute (e.g., Binkley Mining Co. v. Wheeler, 133 F. (2) 863, 8th Cir., (1943). As indicated, the cases shade and blend.

However, the term "wilful," as it is used in Section 9(b) of the Administrative Procedure Act, is, it is submitted, another facet of this interesting inquiry, and one which rests upon considerations which cannot be decided by the generalities which have become the badge of authority in this field. This inquiry must begin with the understanding that the stress is on the remedial protection intended by Section 9(b) and a recognition that such remedial protection can be denied only in unusual circumstances. Hence, the term "wilful" is used as a test to determine when an agency may deny this remedial protection.

Simply describing the test by the word "wilful" has only the virtue of simplicity. Meaning must be given, meaning which is rooted in the same source-bed as the statute. Thus, "wilful" is a matter of jurisdiction, determining when a matter is mature for punitive action, and when the remedial guarantee may be withdrawn. In these circumstances, "wilfullness" must be read in the light of the statutory purpose and intent.

Such a reading, it is submitted, is necessary, if the statutory remedy is to be preserved. Otherwise, the provisions of Section 9(b)(3) may be emasculated simply by inserting the word "wilful" before every allegation in the complaining document. This, it is submitted, was not the intent of Congress.

The will of Congress, it is submitted, would be met in this case, if the facts, as disclosed by the record, are candidly read. Thus, by doing, we may demonstrate.

First, what is there that is wilful in the paragraphs concerning "added" weight? The evidence discloses that there was an absence of scale tickets to evidence the invoice weights. The mere fact that such transactions physically occurred at country points, and not posted stock yards, where scale tickets were not required to be kept, in and of itself should have demanded a careful inquiry as to the reason for their absence. Moreover, the Secretary accepted without question the petitioners' evidence of the purchase weight of the hogs, notwithstanding that there were no scale ticket records to support these weights. Accordingly, absent such inquiry, the Secretary was in no position to allege those acts to be "wilful."

In connection with the allegations concerning the so-called "switching" of hogs, and the change of head count, all of which occurred at St. Louis, the chronology, the time, and a consideration of the particular transactions, all point to practices which are not counter to the intent of the regulations alleged to have been violated.

These are illustrative, rather than exhaustive. They do reach one common end — that wilfullness, to justify the denial to these petitioners of the protection prescribed by Section 9(b) of the Administrative Procedure Act, is and was not present. It is submitted, therefore, that on this ground alone, reversal is required.

IV

THE MATTERS ALLEGED IN PARAGRAPHS VI, VII AND XI OF THE ORDER OF INQUIRY, WERE NOT IN FACT VIOLATIONS, AND, IN ANY EVENT, WERE NON-WILFULL.

(a) *The Hunter-Heil Transactions, Paragraph VI:*

It is alleged that petitioners prepared scale tickets, and presented them to these packers, as evidence of the weight of the hogs invoiced. The conclusion which the Secretary drew from the evidence, and which he found, is non-factual.

It is true that a scale ticket was proposed. But, as the witness Gilby testified, this procedure was followed for the purpose of conveniencing a particular packer-purchaser, and that a memorandum or summary scale ticket, and not a scale ticket, although on a scale ticket form, was in fact prepared for this packer-purchaser. (Tr. 596-604). This witness testified that there was in existence, prior to the preparation of the complained of document, a scale ticket for every pound on every hog reflected on the summary scale ticket, and that the complained of documents were nothing more than "memoranda" of the transactions (Tr. 601). His explanation for this procedure was reasonable and logical. Hogs moved faster than the mail. The packer-purchaser wanted a memorandum of the weights. The scale ticket was a convenient form. This and nothing more was involved. The Packers & Stockyards Branch has administratively recognized the propriety of this practice. Currently, this Branch has approved a "memorandum scale ticket" form to accompany the invoice to the packer. This is continuation of the practice of which complaint has been made.

Nevertheless, the complainant called an expert to testify to the scale on which the complained of documents were made, (Tr. 302 et. seq.), who testified to matters as to which respondents would have stipulated, had request therefore been made. Complainant was determined to prove that which no one contested, and then, its proof in, refuses to listen to the reasonable, logical, sensible explanation.

(b) The "Switching" Transaction - Paragraph VII.

The witness McCoy conducted the investigation and sponsored in evidence the exhibits upon which the government relied to establish the actions complained of as wilful violations of the statute and the regulations. He stated that he obtained the documents, which are reflected on complainant's Exhibits 65 and following, "during the summer of 1956" (Tr. 390), which was more than a year before the complaint was issued.

The manner in which he conducted this investigation is interesting. Methodically, he copied documents relating to certain transactions. Whether he copied only those which were later submitted as evidence at the hearing, or whether he copied only certain documents pursuant to beforehand given instructions, does not appear. Questions as to this phase would, it is certain, be met with the objection that such matters were "inter-office communications," and therefore privileged.

Nevertheless, the witness McCoy candidly stated that his examination of the Sparks records disclosed to him "possible violations" of the Act and regulations (Tr. 391). He did not, he categorically stated, discuss these possible violations with anybody in the Sparks organization, although they were present and available and cooperative, because, he said,

> ". . . as an accountant it is not my function to discuss with registrants their trade practices, their operations. I report to my supervisor and he discusses with the registrant." (Tr. 391)

But this record is barren of any evidence of any discussion by any supervisor, or anyone else, with any respondent as to any phase of this investigation.

And, significantly, the witness McCoy did not ask any of the Sparks respondents "to explain these particular exhibits [complainant's exhibits 43 through 75] which are shown in these exhibits." (Tr. 392, lines 2-3) It is possible that the witness said that he did not ask any of the Sparks respondents "to explain these possible violations which are shown in these exhibits," (complainant's exhibits 43 through 75). The sense is the same - he asked no one for any explanation.

The witness McCoy conceded that the exhibits he sponsored in evidence do not show any substitution. "As far as when the substitutions occurred would have to be testified to by the persons making the observations," he said (Tr. 393).

The "persons making the observations" appears to have been, among others, John A. Sands, Jr., Livestock Marketing Specialist, District Supervisor, St. Louis National Stock Yards, National Stockyards, Illinois (Tr. 414-15). Mr. Sands has been a District Supervisor for about seven years (Tr. 414), and has been with the Packers and Stockyards branch of the United States Department of Agriculture, since 1950 (Tr. 415). As District Supervisor of the St. Louis National Stock Yards, he is "responsible for the enforcement of the Packers and Stockyards Act in the National Stockyards district which consists of the southern half of Illinois and the eastern half of Missouri." (Tr. 415). As to scale tickets, he considered such a "sacred document", which, among other things, evidences the change of title, which, he stated, occurred "when the livestock is weighed." (Tr. 416)

District Supervisor Sands then testified to the allegations in the complaint alleged to have occurred on September 14, 1955, concerning substitution of hogs sold to Figge & Hutwelker Co. On that date, he said, he observed the weighing of two drafts of hogs to Sparks No. 10. He observed "approximately ten head of red hogs in these two weighings." (Tr. 418)

The next day, District Supervisor Sands observed the hogs which had been weighed to Sparks No. 10 the day before, verified the head count and noted that "there were no red hogs in this group. This led me to suspicion that possibly there had been a switching of hogs in Sparks alley." (Tr. 418, lines 18-20, underscoring added)

Notwithstanding this "suspicion that possibly there had been a switching of hogs in Sparks alley," (underscoring added), District Supervisor Sands made no mention of either the events he observed on September 14 and 15, 1955 or of his "suspicion" to anyone in the Sparks organization, although both he and Harry Sparks have offices in the same building, and see each other frequently every day. Neither did he renew his vigils with any haste. Apparently he saw no need for immediacy. His "suspicion that possibly there had been a switching of hogs in Sparks alley" was so tenuous, so unconvincing, so lacking in persuasiveness, that his next observation "in the hog division at the stockyards with respect to the method of handling hogs belonging to H. L. Sparks & Company" was not made until September 14, 1956, ONE YEAR LATER. (Tr. 418, lines 21-25)

Nevertheless, on this evidence alone, on the testimony of a witness that what he saw on September 14 and 15, 1955, "led" him "to suspicion that possibly there had been a switching of hogs in Sparks alley," there is a finding of wilful violation. This is not substantial evidence. This is not evidence upon which it should be concluded that registration under the Act, as it read at the time this alleged violation occurred, should be suspended.

This witness, District Supervisor Sands, testified with respect to the events alleged to have occurred on September 14, 1956 and October 10, 1956, respectively. (Tr. 418, 421). As to the September 14, 1956 transaction, the witness Sands stated that he heard, on September 14, 1956, that Miller Packing Co. had rejected six hogs, and saw five (not six) hogs returned, and five other hogs replace the five rejects. (Tr. 419-420)

This witness also testified to the transaction alleged to have occurred on October 10, 1956. He said he saw the buyer for Krey Packing Company and a Sparks employee observe a draft of hogs previously weighed, and together take several hogs out of another pen and put them in the observed pen. Hogs were then taken out of the observed pen and penned elsewhere. He estimated that five head were involved. (Tr. 429)

The witness Sherman testified to the events which allegedly occurred on September 12, 1956, which are referred to in Proposed Finding 31, under date of September 11, 1956. (Tr. 440) His testimony dutifully corroborated that of his superior, District Supervisor Sands, and, like his supervisor and superior, he maintained a complete and clam-like silence. One facet is striking - the elaborate stake-out of the Sparks' pens. This could have been completely eliminated if, at any time during the year intervening between the first observation and the second, anybody had uttered as much as one syllable to anyone in the Sparks' organization, that this practice, isolated and infrequent as it was, was frowned upon. Apparently and obviously, prosecution and not administration was the motivating purpose.

The basic challenge to these Proposed Findings of Fact is that District Supervisor Sands failed to discharge his duties as District Supervisor of the St. Louis National Stock Yards. He observed the alleged violations, yet said nothing about them to the alleged violators, even after the violations were completed. The evasive answers elicited in his cross-examination demonstrate without doubt the poverty of the evidence upon which these Proposed Findings of Fact rest, and the fact that John A. Sands, Jr., Livestock Marketing Specialist, and District Supervisor, St. Louis National Stock Yards, failed utterly to measure up to the duties of that position. This testimony appears at pages 422-439 of the transcript. No summary could do justice to those recitals. It must be read in its entirety to be understood and evaluated. The Judicial Officer is earnestly requested to do so.

The baselessness of these Proposed Findings of Fact is further disclosed by the fact that the record shows that all the alleged switchings were made after title had passed from respondents to the packer-purchaser. Thus, the witness Sands stated that Tom Guignon, hog-buyer for Krey, the packer-purchaser, requested that certain hogs be substituted, after the hogs had been purchased by Krey the day before. Krey was doing something with his, not Sparks', hogs. The reason for the requested substitutions in this, and in all other instances, are a matter of public knowledge at the stockyard. A hog may appear to be bruised, to be sluggish, or to be in some way unacceptable to the buyer, after purchase. He wants an exchange. If the substitution is made, it is a substitution of equal hogs as to poundage. No one is over-reached. This is not the case of the seller slyly substituting an inferior or lighter hog for a superior or heavier hog. In fact, the seller does not make the substitution. If it is made, it is made by the buyer. Therefore, the act alleged is not the act of the respondents and, therefore, should not have been cited. The circumstances are such, the context within which the act complained of is performed, are not those against which any rule or provision of the statute speaks. In truth and fact, the provisions of the Act and the Rules which are cited as being violated, do not and were never intended to govern a situation where both the buyer and seller, at the request of the buyer, substitute one hog for another, equal for equal. This is a matter of administration, not of prosecution.

(c) *The Head Count Transaction, Paragraph XI.*

It should be noted that these charges involve only a change in head count, with no change in weight. Only 9 hogs are involved, in four transactions; the first, on October 25, 1954, just short of three years prior to the issuance of the complaint involving 6 hogs; the second on July 28, 1955, almost three years prior to the issuance of the complaint, involving 1 hog; the third on November 10, 1955, just short of two years prior to the issuance of the complaint, and involving 1 hog, and the fourth and last, on April 24, 1956, and involving only 1 hog.

The witness McCoy who testified with respect to this phase of the complaint, stated that he conducted his investigation in the summer of 1956 (Tr. 390), and that he never requested an explanation from anyone in the Sparks organization (Tr. 391-2). He likewise made no inquiry with respect to the matters he found in connection with the items reflected in proposed findings 27, 28, and 29 (Tr. 402-5).

This witness further testified that changes in head counts are necessary to reflect errors in computation (Tr. 404-410) and finally concluded that when such errors in head counts occur, the change in the head count should be made by an authorized person and initialled and all copies should be initialled (Tr. 410).

The testimony of the witness Gilby with respect to this matter is illuminating (Tr. 617-623). "The truth is that by order of the stockyard's employee responsible — they were instructed to change the number of hogs on that second item to the figure that is now shown, 138. We have a record against the transaction in the book that records it of who called up and gave these instructions. I did not carry a copy of the initials, and the same is true — of the other — three items", in paragraph XI(a) of the complaint (Tr. 621). This is the truth.

As this witness testified, it is not a case of hogs being taken off or added on (Tr. 621), but simply "a case of the scale ticket showing the weight of the hogs that are now represented after the change"

(Tr. 622). It was nothing more than the correction of an error in head count (Tr. 622-3), and the fact, it should be noted, was simply in failing to have the change initialled by a stockyard company employer.

This witness further stated that this method of correcting the head count was the "customary practice" obtaining at the stockyard, not the "customary practice" of the respondents, as found in proposed finding No. 30 (Tr. 623). The changes are made on instructions from the stockyard employees, who in turn neglect to change their own copies. Respondents cannot be held responsible for the neglect of the stockyard employees (Tr. 623). That this is the practice of the stockyard and the responsibility of the stockyard, is affirmed by William Heinrich, a hog counter at National Stock Yards.

There is no charge, there is no proof, that the hog count as amended, was incorrect. There is no charge, there is no proof that the count was changed in order to overreach the purchaser. Thus, the only charge is that the procedure followed to amend the scale ticket to reflect the true and correct facts, was somehow faulty. And, this charge results from the failure of the stockyard employees to reflect this change on their records. In fact, the gravamen of this charge may well be that the stockyard employees failed in their duty — and responsibility, vicariously, is lodged with respondents for this failure, that of the stockyard employees. This, it is respectfully submitted, is not a violation, a wilful violation, of the Act and the Regulations for which forfeiture of registrant is warranted.

It should be noted that both laches and de minimus are applicable to this Proposed Finding. These are spelled out above — four transactions, over a period of three years, involving eight hogs out of over one million hogs. This is indeed seeing the mote in another's eye.

CONCLUSION

Accordingly, it is respectfully requested that the relief requested in the petition heretofore filed herein, be granted, and for such other and further relief as the Court may deem to be fitting in the premises.

Respectfully submitted,

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BRIEF FOR RESPONDENTS

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

HARRY LEE SPARKS and REX WANDA SPARKS (Doing Business As H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria), PETITIONERS,

v.

EZRA TAFT BENSON, Secretary of Agriculture, and UNITED STATES OF AMERICA, RESPONDENTS

ON PETITION FOR REVIEW OF AN ORDER OF THE SECRETARY OF AGRICULTURE

United States Court of Appeals
For the
District of Columbia Circuit

FILED APR 14 1961

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COUNTER-STATEMENT OF THE QUESTIONS PRESENTED

The petitioners are registered as "dealers" at certain posted stockyards under the Packers and Stockyards Act. It was found and concluded by the Judicial Officer, on the basis of the evidence adduced in the administrative proceeding, that the petitioners violated the Act and the administrative regulations (1) by selling hogs to packers at false weights and giving false invoices and false scale tickets to the packers, (2) by altering scale tickets and adding data to scale tickets, (3) by substituting hogs which had not been weighed for hogs which had been weighed, and (4) by making false entries in the petitioners' records and causing false entries to be made in the packers' records. The petitioners were ordered by the Judicial Officer to cease and desist from those unlawful practices. Further, the petitioners were ordered by the Judicial Officer to keep accounts, records, and memoranda which would fully and correctly disclose all transactions involved in their business as dealers, and the petitioners were suspended as registrants under the Act for a period of six months. The questions relate to whether the findings and order of the Judicial Officer are properly and adequately based on the record, whether these transactions are violative of the Act and the regulations, and whether the order of the Judicial Officer is in accordance with law.

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16,041

Harry Lee Sparks and Rex Wanda Sparks (Doing Business As H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria), PETITIONERS,

v.

Ezra Taft Benson, Secretary of Agriculture, and United States of America, RESPONDENTS

ON PETITION FOR REVIEW OF AN ORDER OF THE SECRETARY OF AGRICULTURE

BRIEF FOR THE RESPONDENTS

COUNTER-STATEMENT OF THE CASE

I. Introduction

The proceeding in this Court is pursuant to the Act of December 29, 1950, 64 Stat. 1129, 5 U.S.C. § 1031 *et seq.*, known as the Hobbs Act, to obtain judicial review of an order of the Judicial Officer[1] in the United States Department of Agriculture. The petitioners in this Court, *i.e.*, the respondents in the proceeding before the Judicial Officer, allege in their petition for judicial review (JA 121-125) that the order of the Judicial Officer is not in accordance with law. This counter-statement of the case is necessary, we believe, in order to present, adequately and correctly, the relevant material in the record and the relevant statutory provisions and administrative regulations, and thus facilitate the understanding of the issues and arguments in the case.

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[1] The Judicial Officer acted for the Secretary of Agriculture of the United States pursuant to the authority delegated to the Judicial Officer. 10 F.R. 13769; 11 F.R. 177A-233; 18 F.R. 3219, 3648; 19 F.R. 74. The delegation was originally authorized by Congress (Act of April 4, 1940, 54 Stat. 81, 5 U. S. C. § 516a *et seq.*) as a result of *Morgan* v. *United States*, 298 U. S. 468, and *Morgan* v. *United States*, 304 U. S. 1, and is in accordance with the recommendation of the Attorney General's Committee on Administrative

The petitioners, as partners, are engaged in buying and selling livestock at certain stockyards which are "posted," for regulatory purposes, by the Secretary of Agriculture pursuant to the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*). The petitioners are registered under the Packers and Stockyards Act as "dealers" at the St. Louis National Stock Yards, National Stockyards, Illinois; the Mississippi Valley Stock Yards, St. Louis, Missouri; the Bushnell Stock Yards, Bushnell, Illinois; the Union Stock Yards, Peoria, Illinois; and the Springfield Stock Yards, Springfield, Illinois (JA 7-8, 19, 79-80; 19 Agr. Dec. 709, 712).[2] The petitioners are also registrants under the Act as "market agencies" at some of those stockyards, *viz.*, the Bushnell Stock Yards, the Union Stock Yards, and the Springfield Stock Yards (*ibid.*). The petitioners use various trade names in carrying on their business, *viz.*, H. L. Sparks and Company, H. L. Sparks & Company of Springfield, H. L. Sparks & Company of Bushnell, and H. L. Sparks & Company of Peoria (*ibid.*).

Procedure in Government Agencies (S. Doc. No. 8, 77th Cong., 1st Sess., p. 53). See Flavin, *The Functions of the Judicial Officer, United States Department of Agriculture*, 26 George Washington Law Review 277. The incumbent of this position has held the office since 1942. The decisions of the Judicial Officer are published in Agriculture Decisions. The decision in this proceeding is in 19 Agr. Dec. 709 and is also in the record on appeal (JA 77-104).

[2] The petitioners were registrants at the Springfield Stock Yards, Springfield, Illinois, but their registrations at the Springfield Stock Yards became inactive on November 26, 1956 (JA 7-8, 19, 80; 19 Agr. Dec. 709, 712).

It was found and concluded by the Judicial Officer that Harry Lee Sparks and Rex Wanda Sparks — the petitioners on appeal, *i.e.,* the respondents in the administrative proceeding — engaged in certain practices in 1954, 1955, 1956, and 1957 in violation of the Packers and Stockyards Act (JA 80-103; 19 Agr. Dec. 709, 712-734). They were ordered by the Judicial Officer to cease and desist from (1) selling hogs at false weights; (2) using any false scale ticket as a basis for settlement for hogs sold; (3) altering any scale ticket or copy thereof issued by a posted stockyard; (4) using any scale ticket to indicate the weight of a lot of hogs after any substitution of a hog after the draft was weighed; and (5) causing false entries in their own accounts, records, or memoranda or in those of any other person or firm subject to the provisions of the Packers and Stockyards Act (JA 104; 19 Agr. Dec. 709, 734). Further, it was ordered by the Judicial Officer that the petitioners, *i.e.*, the respondents in the administrative proceeding, shall keep accounts, records, and memoranda which shall fully and correctly disclose all transactions involved in their business (JA 104; 19 Agr. Dec. 709, 734), and they were suspended as registrants under the Packers and Stockyards Act for a period of six months, but the suspension is applicable only to activities within the terms of the Act prior to the statutory amendment of September 2, 1958 (JA 104; 19 Agr. Dec. 709, 734).

II. The Relevant Provisions of the Packers and Stockyards Act and the Administrative Regulations

The Packers and Stockyards Act, 1921 (42 Stat. 159, as amended, 7 U.S.C. 1952 ed. § 181 *et seq.*), was further amended by Pub. L. 85-909 on September 2, 1958 (72 Stat. 1749), with respect to various provisions applicable to stockyards, stockyard owners, market agencies, and dealers. The transactions in this case, however, were prior to the enactment of Pub. L. 85-909 and, therefore, the statutory references herein are to the provisions in the 1952 edition of the United States Code. The significant statutory provisions which are applicable in this case were not repealed by Pub. L. 85-909, but were amended in some respects, *e.g.*, the administrative jurisdiction over market agencies and dealers was expanded by the amendment to § 301(c) and 301(d) of the Act (7 U.S.C. 1958 ed § 201 (c) and 201(d)).

The relevant provisions of the Packers and Stockyards Act[3] are set forth in Appendix A, *infra*, pp. 50-54, and the relevant provisions of the administrative regulations are set forth in Appendix B, *infra*, pp. 55-56.

III. The Administrative Proceeding

A. *The Complaint*

It is alleged, in the complaint[4] filed in the administrative proceeding, that Harry Lee Sparks and Rex Wanda Sparks violated §§ 312(a), 401, and 402 of the Packers and Stockyards Act (7 U. S. C. §§ 213(a), 221, and 222), and § 201.55 of the administrative regulations (9 CFR § 201.55) in many transactions in 1954, 1955, 1956, and 1957 by (1) selling hogs at false weights and, in connection with such sales, issuing invoices and scale tickets to packers containing false weights; (2) making alterations in copies of scale tickets retained in their records and billing purchasers of hogs on the basis of such altered scale tickets; and (3) substituting hogs which had not been weighed for hogs in drafts which had been weighed and billing the purchasers on the basis of weights obtained prior to such substitution (JA 6-16).

In paragraph IV of the complaint, it is averred that

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[3] The Act is divided into five parts, and the pentamerous arrangement is as follows: Title I contains definitions of certain general terms (7 U. S. C. 1952 ed. §§ 181-183); Title II relates generally to packers (7 U. S. C. 1952 ed. §§ 191-195); Title III relates to stockyards and the operations of market agencies and dealers (7 U. S. C. 1952 ed. §§ 201-217a); Title IV contains general provisions which are applicable to the entire Act (7 U. S. C. 1952 ed. §§ 221-231); and Title V, added by way of an amendment (49 Stat. 648), relates to the handling of live poultry in commerce (7 U. S. C. 1952 ed. §§ 218-218d).

[4] The complaint is entitled "Order of Inquiry and Notice of Hearing" (JA 6).

Harry Lee Sparks and Rex Wanda Sparks, as partners, purchased hogs at various "posted" stockyards during the period from December 1, 1955, through January 31, 1957, and "sold such hogs, together with hogs purchased by * * * [the respondents in the administrative proceeding, *i.e.*, the petitioners on appeal] through Midwest Order Buyers, to various packers at false and incorrect weights which were greatly in excess of the true and correct weights of such hogs"(JA 8). These 45 transactions are enumerated in paragraph IV of the complaint (JA 8-9).

It is averred in paragraph V of the complaint that, in connection with the 45 transactions catalogued in paragraph IV relative to the sales of the hogs at false and incorrect weights, Harry Lee Sparks and Rex Wanda Sparks, as partners, "operating through Midwest Order Buyers, issued invoices to the packers showing such false and incorrect weights and received payments from said packers based upon said false and incorrect weights" (JA 10). Copies of the false and incorrect invoices were made a part of the accounts and records of the packers, as alleged in paragraph V of the complaint, and the packers were, at all times mentioned in the complaint, subject to the provisions of the Packers and Stockyards Act (JA 10).

Paragraph VI of the complaint contains allegations to the effect that Harry Lee Sparks and Rex Wanda Sparks, as partners, issued false and fictitious scale tickets with respect to various transactions in hogs (JA 10-11). These transactions in which false and fictitious scale tickets were issued are enumerated in paragraph VI (JA 10-11).

In paragraph VII of the complaint, it is alleged that in certain transactions enumerated in the allegations the partnership of Harry Lee Sparks and Rex Wanda Sparks substituted hogs which had not been weighed for hogs that had been weighed and thereafter delivered to the purchasers these lots of hogs "without reweighing" and billed the purchasers "upon the basis of the weights obtained at the time the hogs were weighed" prior to the substitutions (JA 11).

In paragraph XI of the complaint, it is alleged that the partnership of Harry Lee Sparks and Rex Wanda Sparks "made alterations in copies of scale tickets retained in * * * [their] records by changing the head count shown on such copies of scale tickets and making other entries which were different from, or in addition to, the entries appearing on copies of scale tickets retained as part of the accounts and records of the St. Louis National Stock Yards corporation, owner and operator of said stockyard" (JA 13). The "altered scale tickets were used by respondents," as alleged in paragraph XI of the complaint, "as a basis for billing the purchasers of the hogs" (JA 13). In some of these transactions, as alleged in this paragraph of the complaint, the partners, Harry Lee Sparks and Rex Wanda Sparks, "changed the head count on the copies of the scale tickets retained in their records" (JA 13). In other transactions enumerated in this paragraph of the complaint, they "made entries in copies of scale tickets retained in their records showing numbers and weights of hogs, which numbers and weights were deducted from, or added to, the head counts and weights of hogs appearing on such copies of the scale tickets," and these entries "were false and misleading in that they represented that certain numbers of hogs had been weighed at certain weights at the stockyard, whereas there were no weighing transactions to support the entries made by respondents on such copies of scale tickets" (JA 14).[5]

The Midwest Order Buyers, referred to in some of the averments of the complaint, is a "partnership composed of Harry Lee Sparks and Rex Wanda Sparks with its principal office at Chapin, Illinois" (JA 8), and these partners control the Midwest Order Buyers and use it "to carry on" certain of their "dealer activities" as registrants under the Packers and Stockyards Act (JA 8). It is used by its owners, the partnership of Harry Lee Sparks and Rex Wanda Sparks, "to purchase hogs to fill orders received" by the partnership from packers and to "bill said packers for certain hogs sold to them" by the partners (JA 8).

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[5] There were additional violations alleged in paragraphs VIII, IX, and X of the complaint (JA 12-13), but these charges were dismissed during the hearing (JA 334; 19 Agr. Dec. 709, 710).

It is alleged in the complaint that Harry Lee Sparks and Rex Wanda Sparks are registered under the Packers and Stockyards Act as "dealers" at the St. Louis National Stock Yards, National Stockyards, Illinois; the Mississippi Valley Stock Yards, St. Louis, Missouri; the Bushnell Stock Yards, Bushnell, Illinois; the Union Stock Yards, Peoria, Illinois; and the Springfield Stock Yards, Springfield, Illinois (JA 7-8). Further, it is alleged in the complaint that the petitioners are registrants under the Act as "market agencies" at the Bushnell Stock Yards, the Union Stock Yards, and the Springfield Stock Yards (JA 7-8). The petitioners use various trade names, as alleged in the complaint, in carrying on their business, *viz.*, H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, H. L. Sparks & Company of Springfield, and H. L. Sparks & Company of Peoria (JA 7-8).

The St. Louis National Stock Yards, National Stockyards, Illinois, and the Bushnell Stock Yards, Bushnell, Illinois, and the Mississippi Valley Stock Yards, St. Louis, Missouri, and the Springfield Stock Yards, Springfield, Illinois, and the Union Stock Yards, Peoria, Illinois, are "posted stockyards" subject to the provisions of the Packers and Stockyards Act and were posted stockyards subject to that statute at all times mentioned in the complaint (JA 7).

In paragraph XII of the complaint, it is alleged that in a prior proceeding under this Act an order was entered on October 15, 1951, by the Judicial Officer requiring Harry Lee Sparks and Rex Wanda Sparks "to keep such accounts, records, and memoranda as will fully and correctly disclose all transactions involved in their business [under the Packers and Stockyards Act] and to cease and desist from engaging in the unfair, unjustly discriminatory, and deceptive practices and devices described in the findings of fact of said order" (JA 15). Further, it is alleged that in the order of October 15, 1951, by the Judicial Officer, it was found that:

> "3. Respondents [*i.e.*, Harry Lee Sparks and Rex Wanda Sparks] at divers times and in numerous transactions during the period from February 28 to August

> 31, 1950, altered scale tickets issued in connection with purchases by the respondents of hogs at the stockyard on a dealer basis by changing the head count or the date, or both, shown thereon; resold such hogs to various customers; and used such altered scale tickets as the basis for bills or invoices furnished the customers for such hogs" (JA 15).

B. *The Answer*

It is admitted in the answer filed in the administrative proceeding that the stockyards referred to in paragraph I of the complaint are posted stockyards subject to the Packers and Stockyards Act, and that they were posted stockyards during the various times mentioned in the complaint (JA 19). It is further admitted in the answer that the allegations in paragraph II of the complaint are correct with respect to the registrations of Harry Lee Sparks and Rex Wanda Sparks as dealers and market agencies at the posted stockyards listed in the allegations of the complaint (JA 19).

The "first defense" in the answer is based on the assertion that the complaint "rests upon innuendo, implication, and deduction, from which respondents [the petitioners in this Court], at their peril, must guess and conjecture as to the infractions alleged" (JA 17). The motion is thereupon made, in the answer, that the complaint "be dismissed" (JA 17).

The "second defense" set forth in the answer is also a motion to dismiss, based on the assertion that the complaint fails to "state a claim upon which the relief requested, or any relief, can be granted" (JA 17).

The "third defense" in the answer is that the complaint should be dismissed because, as asserted in the answer, the administrative agency lacks "jurisdiction of both the persons and the subject matter" (JA 18).

The "fourth defense" is also a motion to dismiss on the ground that there has been a failure to comply with § 9(b) of the Administrative Procedure Act (JA 18-19).

The "fifth defense" admits some of the allegations of the complaint (JA 19), asserts a fatal lack of specificity in the allegations as to the transactions in which false weights, false invoices, and false scale tickets were given (JA 19-20), denies that the allegations in paragraph XI of the complaint—as to the alteration and falsification of scale tickets —"constitute violations of the Act and Regulations" (JA 22), and denies the allegations of the complaint as to violations of the statute and the applicable regulations (JA 22).

C. *The Hearing*

The transcript of the testimony adduced at the administrative hearing consists of 991 pages, and the relevant parts are set forth on pages 126-590 of the Joint Appendix. In addition, 80 exhibits or series of exhibits were introduced in evidence on behalf of the complainant in the administrative proceeding, and 17 exhibits or series of exhibits were introduced on behalf of Harry Lee Sparks and Rex Wanda Sparks, the respondents in the administrative proceeding, *i.e.*, the petitioners in this Court.

The evidence relates to the numerous transactions, as alleged in the complaint, in which Harry Lee Sparks and Rex Wanda Sparks, as partners, violated the Packers and Stockyards Act (1) by selling hogs at false weights and, in connection with the sales, issuing invoices and scale tickets which showed false weights; (2) by making alterations in copies of scale tickets retained in their records and billing the purchasers of hogs on the basis of the altered scale tickets; and (3) by substituting hogs which had not been weighed for hogs in the drafts which had been weighed and billing the purchasers on the basis of the weights obtained prior to the substitution (see, *e.g.*, JA 147-169, 186-191, 201-202, 256-266, 282-295, 318-322, 331-334). The testimony and the exhibits also relate to the various records which were made and kept with respect to the various transactions (see, *e.g.*, JA 282-295, 733, 735, 741, 743, 745).

D. *The Hearing Examiner's Report*

The report of the Hearing Examiner contains 32 findings of fact with respect to the various transactions involved in the proceeding (JA 23-41), and it was concluded by the

Hearing Examiner that the allegations in the complaint with respect to the violations charged should be sustained (JA 33-40).

The transactions in which Harry Lee Sparks and Rex Wanda Sparks, as partners, violated the Act and the administrative regulations are elaborated in the findings of the Hearing Examiner (JA 24-33). An order should be issued, according to the report of the Hearing Examiner, so as to require Harry Lee Sparks and Rex Wanda Sparks to cease and desist from (1) selling hogs at false weights; (2) using any false scale ticket as a basis for settlement for hogs sold; (3) altering any scale ticket or copy thereof issued by a posted stockyard; (4) using any scale ticket to indicate the weight of a lot of hogs after any substitution of a hog after the draft was weighed; and (5) causing false entries in their accounts, records, and memoranda or in those of any other person or firm subject to the provisions of the Act (JA 40). Further, the Hearing Examiner concluded that an order should be issued to require Harry Lee Sparks and Rex Wanda Sparks, as partners, to "keep such accounts, records, and memoranda as will fully and correctly disclose all transactions involved in their business" (JA 41). The registrations of Harry Lee Sparks and Rex Wanda Sparks should, according to the report of the Hearing Examiner, be "suspended for two years" (JA 41).

E. *The Findings of Fact, Conclusions, and Order of the Judicial Officer*

In the decision and order under review in this case (JA 77-104; 19 Agr. Dec. 709), the Judicial Officer set forth findings of fact which are substantially the same as the findings of the Hearing Examiner (JA 24-33).

The Judicial Officer found that in 46 specific transactions the respondents, *i.e.*, the petitioners on appeal, sold hogs to packers at false and incorrect weights (JA 80-81; 19 Agr. Dec. 709, 713-714). These 46 transactions involved more than 22,000 hogs which were sold at false and fictitious weights (JA 80-81; 19 Agr. Dec. 709, 713-714). The false weight was substantial in every instance, *e.g.*, the false weight with respect to the 96 hogs sold on October 4, 1956, to Swift & Company was 1,000 pounds; the false weight with respect to the hogs sold on January 21, 1956, to Swift & Company was 2,000 pounds; the false weight on the hogs sold on February 13, 1956, to the Home Packing Company was 3,430 pounds; the false weight on the hogs sold on September 6, 1956, to the Hunter Packing Company was 2,570 pounds; and the false weight on the hogs sold on December 10, 1955, was 2,310 pounds (JA 81; 19 Agr. Dec. 709, 713-714).

In the usual course of business, Harry Lee Sparks, at the office of H. L. Sparks and Company at the St. Louis National Stock Yards, received orders for hogs from packers (JA 80; 19 Agr. Dec. 709, 712), and it was further found by the Judicial Officer that:

> "In addition to hog purchases at the St. Louis National Stock Yards to fill orders respondents [*i.e.*, the petitioners in this Court] bought hogs at the posted stockyards at Bushnell, Peoria, and Springfield and at country buying points maintained by respondents under the name Midwest Order Buyers. Harry Lee Sparks called the Midwest office, located at Chapin, daily and instructed George J. Ischer, Jr., where the hogs that had been purchased were to go. Ischer then gave respondents' employees at each buying point, including the posted stockyards at Bushnell, Springfield, and Peoria instructions as to where each lot of purchased hogs was to be shipped. Respondents arranged for the transportation of the hogs to the packer-purchasers. Subsequently, Ischer prepared or had prepared invoices to be mailed to the purchasers whose orders had been filled. Payment by the purchasers was made to Midwest at the offices of H. L. Sparks and Company, National Stockyards, Illinois, where the Midwest bank account was kept. The sales and financial records of respondents' operation at Bushnell, Peoria, and Springfield were kept and maintained at

> the office at Chapin, Illinois" (JA 80; 19 Agr. Dec. 709, 712-713).

In each of these transactions in which hogs were sold to packers at false and incorrect weights, the shipments consisted of hogs purchased by Harry Lee Sparks and Rex Wanda Sparks, as partners, at the posted stockyards in Bushnell, Peoria, or Springfield, and some hogs which were purchased by them at country buying stations (JA 82; 19 Agr. Dec. 709, 714). The invoice or bill which they sent to the packer in each transaction was prepared at the office of Midwest Order Buyers in Chapin, Illinois, and a copy of the bill or invoice was retained in the files of Midwest Order Buyers (JA 82; 19 Agr. Dec. 709, 714). "The weight figure," as found by the Judicial Officer, "shown on each bill or invoice was not based upon any reweighing of the hogs. Payments for the hogs were remitted to respondents at the St. Louis National Stock Yards" (JA 82; 19 Agr. Dec. 709, 714).

In some of these transactions, the packers requested "scale tickets," and they were supplied with scale tickets "in support of the weight figures shown on the invoices rendered by respondents to them" for the hogs (JA 82; 19 Agr. Dec. 709, 714). In each of the transactions, the scale tickets were attached to the invoice to the purchaser and purported to show that different drafts of hogs had been weighed at various weights, and that the total number of hogs and total weight equaled the total number and weight shown on the invoice (JA 82; 19 Agr. Dec. 709, 715). The Judicial Officer found, however, that the "hogs had not been weighed at the weights shown on the scale tickets or at the total weight shown on the invoice" (JA 82; 19 Agr. Dec. 709, 715). "The scale tickets," as found by the Judicial Officer, "were printed by employees of respondents upon a scale owned by respondents at Chapin although the hogs had not been purchased at, or shipped from, Chapin and no hogs were on the scale at the time the scale tickets were printed. These scale tickets, as well as the invoices issued by the respondents to the purchasers in these transactions, were made a part of the accounts and records of the purchasers, packers subject to the provisions of the Act" (JA 82; 19 Agr. Dec. 709, 715).

In various transactions which are enumerated in the findings of fact by the Judicial Officer, the respondents, *i.e.*, the petitioners on appeal, "changed the head count on the copy of the scale ticket retained in their records" with respect to hogs which were weighed at the St. Louis National Stock Yards (JA 83; 19 Agr. Dec. 709, 715-716). No similar change was made on the scale ticket retained by the stockyard company, and the purchasers of the hogs were billed on the basis of the altered head count (JA 83; 19 Agr. Dec. 709, 715-716). The hogs were weighed on the scale operated by a weighmaster employed by the St. Louis National Stock Yards, and in each instance an original and two copies of the scale ticket were made with respect to each lot of hogs (JA 83; 19 Agr. Dec. 709, 715). The weighmaster wrote the number of head weighed and stamped the weight on the original, and this information was also impressed on the copies; the stockyard company retained the original scale ticket (JA 83; 19 Agr. Dec. 709, 715).

In certain transactions which are catalogued in the findings of fact, the respondents, *i.e.*, the petitioners on appeal, made alterations on scale tickets. In one of these transactions, for example, the scale ticket showed the weighing of 121 hogs at a total weight of 27,945 pounds, but the ticket was altered so as to show that 25 hogs had been weighed at a weight of 6,250 pounds, whereas there was no weighing transaction at the stockyard to support the alteration, but the respondents, *i.e.*, the petitioners on appeal, deducted the 25 hogs allegedly weighing 6,250 pounds from the number of hogs and weight shown on the scale ticket and billed the purchaser of the hogs for 96 hogs weighing 21,695 pounds (JA 85; 19 Agr. Dec. 709, 717).

In certain transactions enumerated in the findings of fact, the respondents, *i.e.*, the petitioners on appeal, substituted hogs which had not been weighed for hogs which had been weighed (JA 86; 19 Agr. Dec. 709, 718-719).

After the substitution had been made in each instance, the hogs were delivered to the packing company without reweighing, and the purchaser was billed on the basis of the weights obtained at the time of the original weighing (JA 86-87; 19 Agr. Dec. 709, 718-719).

It was concluded by the Judicial Officer that in the 46 transactions in which the respondents, *i.e.*, the petitioners in this Court, sold hogs to various packers at false and incorrect weights, they engaged in an unfair and deceptive practice in wilful violation of § 312(a) of the Act (7 U. S. C. 1952 ed. § 213(a)), and, also, that the issuance of invoices showing false and incorrect weights to packers constituted wilful violation of § 312(a) of the Act, § 201.55 of the regulations (9 CFR § 201.55), and § 402 of the Act (7 U. S. C. 1952 ed. § 222), which incorporates by reference § 10 of the Federal Trade Commission Act (JA 92-98; 19 Agr. Dec. 709, 728-729). The printing of false and fictitious scale tickets and the issuance of false and fictitious scale tickets to packers, as shown in the various findings of fact, also constituted wilful violations of § 312(a) of the Act, § 201.55 of the regulations, and § 402 of the Act (JA 98-99; 19 Agr. Dec. 709, 729-730). The failure of Harry Lee Sparks and Rex Wanda Sparks to keep accounts, records, and memoranda which fully and correctly disclosed the true nature of their business transactions and the making of false entries in their records, accounts, and memoranda constituted violations of §§ 401 and 402 of the Act (7 U. S. C. 1952 ed. §§ 221 and 222).

"The changing of head counts shown on scale tickets and the billing of purchasers on the basis of the altered head counts and original weights, and the making of entries on scale tickets falsely representing that hogs had been weighed at certain weights and the billing of purchasers upon the basis of such entries," as concluded by the Judicial Officer, "are unfair and deceptive practices in wilful violation of section 312(a) of the Act" (JA 101; 19 Agr. Dec. 709, 732).

It was concluded by the Judicial Officer that the respondents, *i.e.*, the petitioners in this Court, "should be ordered to cease and desist from the unlawful practices herein and to keep accounts, records, and memoranda which fully and correctly disclose all transactions involved in their business" (JA 103; 19 Agr. Dec. 709, 733). In view of the number and gravity of the violations and of the cease-and-desist order issued in the prior administrative proceeding in 1951 to prohibit Harry Lee Sparks and Rex Wanda Sparks from altering scale tickets and to require them to keep accounts, records, and memoranda which would fully and correctly disclose the true nature of their transactions, it was concluded by the Judicial Officer that they "should be suspended as registrants under the Act for six months" (JA 104; 19 Agr. Dec. 709, 733-734).

The order of the Judicial Officer directs Harry Lee Sparks and Rex Wanda Sparks to cease and desist from (1) selling hogs at false weights; (2) using any false scale ticket as a basis of settlement for hogs sold; (3) altering any scale ticket or copy thereof issued by a posted stockyard; (4) using any scale ticket to indicate the weight of "a lot of hogs after any substitution of any hog after the draft was weighed"; and (5) causing false entries in their own accounts, records, and memoranda or in those of any other purchaser or firm subject to the provisions of the Act (JA 104; 19 Agr. Dec. 709, 734). The order of the Judicial Officer also directs Harry Lee Sparks and Rex Wanda Sparks to keep accounts, records, and memoranda which will fully and correctly disclose all transactions involved in their business (JA 104; 19 Agr. Dec. 709, 734). The order provides that Harry Lee Sparks and Rex Wanda Sparks "are suspended as registrants under the Act for a period of six months," but the suspension is applicable only to activities within the terms of the Act prior to the statutory amendment of September 2, 1958 (JA 104; 19 Agr. Dec. 709, 734).

SUMMARY OF ARGUMENT

The petitioners are registered as "dealers" under the Packers and Stockyards Act, *infra*, pp. 30, 41, and 50. It was found and concluded by the Judicial Officer, on the basis of the evidence adduced at the administrative hearing, that in numerous transactions in 1954, 1955, 1956, and 1957 the petitioners violated the Act and the regulations. The violations of the Act, as shown by the evidence and the findings of fact by the Judicial Officer, are of wide-ranging character (JA 79-104). The Judicial Officer ordered the petitioners to cease and desist from the unlawful practices (JA 104). Further, it was ordered by the Judicial Officer that the petitioners keep such books and records as would fully and correctly disclose all transactions involved in their business, and the petitioners were suspended as registrants under the Packers and Stockyards Act for a period of six months (JA 104).

I

The petitioners, as registrants under the Packers and Stockyards Act, violated the statute and the regulations (1) by selling hogs to packers at false weights and giving false invoices and false scale tickets to the packers, (2) by altering scale tickets and adding data to scale tickets, (3) by substituting hogs which had not been weighed for hogs which had been weighed, and (4) by making false entries in the petitioners' records and causing false entries to be made in the packers' records (JA 79-99). It is provided in § 312(a) of the Act that it is unlawful for a dealer to "engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of livestock." 7 U. S. C. 1952 ed. § 213(a). The Act also requires a dealer to keep such records as will fully and correctly disclose all transactions in his business. 7 U. S. C. 1952 ed. § 221. See also, 7 U. S. C. 1952 ed. § 222. The administrative regulations also require a dealer to keep books and records (9 CFR § 201.95) and for the books and records to show the "weight of livestock bought and sold" (9 CFR § 201.46(a)). The records are to be available to the administrative agency for audit during ordinary business hours (9 CFR § 201.95).

An audit of the petitioners' books and records shows 46 transactions in which the petitioners sold more than 22,000 hogs at false weights and gave false invoices to the purchasers (JA 134-135, 137, 142-144, 148-169, 190-191, 591-702, 707-715). An exhibit identified as Complainant's Exhibit No. 1 (JA 591-701) was received in evidence and it manifests the completeness of the audit of the petitioners' books and records. Another exhibit, identified as Complainant's Exhibit No. 2 (JA 702), was received in evidence and this exhibit relates specifically to the transactions in which the petitioners sold hogs at false weights and gave false invoices to the purchasers.

The record shows the date of each transaction, the name of the packer-purchaser, the name of each posted stockyard at which the petitioners purchased hogs, and the number of hogs in each shipment purchased by the petitioners in each of the stockyards (JA 702). The purchase weight of each lot of hogs was shown by the audit, and the audit also shows the weight at which the hogs were billed to the purchaser (JA 702). The hogs in these transactions were not reweighed but were sold to the purchaser at weights which were arbitrarily higher than the purchase weights (JA 157, 190-191, 230-234, 237, 238-239, 243, 702, 707-715). Every effort was made by the auditor to ascertain whether the hogs in these transactions were reweighed, but the petitioners had no record of any such reweighing, and the auditor was informed by the petitioners' employees that there was no record of reweighing with respect to these transactions (JA 157, 190-191, 230-234, 237, 243, 702).

There is nothing in the record to support the petitioners' assertion in their brief, p. 20, that, in these circumstances, hogs gained weight, and that the weight which the petitioners arbitrarily added to the purchase weight is to cover an estimated gain in weight. Their contention is also contrary to the evidence that hogs lose weight during the day they are being loaded, sorted in pens, sold, and reloaded for shipment to the packer-purchaser (JA 238, 507, 533).

The failure of the petitioners in these circumstances to present evidence of reweighing gives rise to the inference that no such evidence was available or if available would not have tended to support the petitioners' argumentative position in the case. Further, it was admitted by the general manager of the branch of the petitioners' business operating under the name of Midwest Order Buyers that the weights shown on the invoices to the packer-purchasers were obtained by arbitrarily adding a certain amount to "the original buy weights" (JA 731-732). The admissory statement was read to H. L. Sparks (one of the petitioners) before it was executed by the petitioners' employee, George J. Ischer, Jr., and the petitioner said that the statement properly reflected the way they did business (JA 202, 505-507, 589-590). George J. Ischer, Jr., testified in the administrative hearing, and did not deny the truth of the admission in his affidavit (JA 505-506). H. L. Sparks, one of the petitioners, was present at the administrative hearing but failed to testify. The failure of the petitioner in these circumstances to testify gives rise to the inference that his testimony would have been unfavorable to his argumentative position in the case.

There is no merit in the petitioners' contention in their brief, pp. 13-15, that the audit and the results of the audit should not have been received in evidence. Summaries in the nature of an audit are admissible in administrative hearings. *Chicago Board of Trade* v. *United States*, 96 App. D. C. 56, 223 F. 2d 348, 354; *Willapoint Oysters, Inc.* v. *Ewing*, 174 F. 2d 676, 691 (C. A. 9), certiorari denied, 338 U. S. 860.

There can be no doubt with regard to the propriety of the audit of the books and records of the petitioners. The petitioners, as partners, engaged in business under five partnership names, including the name of Midwest Order Buyers (JA 7-8, 19, 431-432), and the sales and financial records of the petitioners with respect to their transactions in livestock at the posted stockyards were maintained at the petitioners' office in Chapin, Illinois (JA 80, 137, 142-145, 510-512). The petitioner, Harry L. Sparks, at the office of H. L. Sparks & Company in the St. Louis National Stock Yards, *i.e.*, a posted stockyard, received orders for hogs from packers and, in addition to the hogs which were purchased by the petitioners at the St. Louis National Stock Yards to fill the orders, the petitioners purchased hogs at the posted stockyards at Bushnell, Peoria, and Springfield, and at various country buying points (JA 80, 431-432, 510-512, 520). The petitioner, Harry L. Sparks, called the office of the Midwest Order Buyers at Chapin daily and instructed the manager there with respect to the various transactions in hogs and how the orders were to be filled (JA 80, 431-432, 510-512, 520).

The 46 transactions involved here include hogs that were purchased by the petitioners at posted stockyards (JA 156-157, 702). The petitioners' records at the posted stockyards were incomplete and failed to show the disposition of the livestock purchased by the petitioners at the posted stockyards, and it was only by an examination of the books and records of Midwest Order Buyers at Chapin, Illinois, that such disposition of livestock could be determined (JA 137, 142-143, 145). The records kept and maintained by the petitioners at Chapin showed the integrated nature of the petitioners' business operations. The jurisdiction of the Secretary under the terms of the Packers and Stockyards Act could not be divested by asserting that a dealer, as the owner of livestock which the dealer purchased at a posted stockyard, transferred the livestock to himself. *United States* v. *Woerth,* 231 F. 2d 822, 824 (C. A. 8). If some of the records pertained to transactions which are not within the scope of the Act, the fact that the petitioners "may have intermingled irrelevant information in the records in question cannot serve to defeat the right of the Secretary of Agriculture to examine these records as to transactions which had their origin in the activities" of a person "as a registered dealer" under the Packers and Stockyards Act. *Ibid.* The keeping of complete and correct records and their inspection from time to time by the administrative agency are "important and essential means in the accomplishment of the purposes of the Packers and Stockyards Act." *Hyatt* v. *United States,* 276 F. 2d 308, 312 (C. A. 10).

Neither of the petitioners testified, and they failed to introduce in evidence their books and records. However, Joseph H. Gilby testified on behalf of the petitioners, but his testimony is, in the main, based on material which, as found by the Judicial Officer, was "prepared by unnamed persons in Chapin and sent to Gilby in Chicago" (JA 96). The witness said that his testimony was based on what he had been told by various employees of the petitioners (JA 451-452). There were numerous infirmities in his testimony and contradictions with respect to it (see, *e.g.*, JA 412, 563). The Hearing Examiner "who was in the position to observe the demeanor of Gilby placed little or no credence on the testimony of this witness" (JA 97).

In various transactions the petitioners issued false or counterfeit scale tickets to the purchasers of the hogs to support the weights listed on the invoices submitted to packer-purchasers in connection with the hogs which they purchased from the petitioners (JA 538-540). The petitioners printed the counterfeit or false scale tickets and forwarded them to the packer-purchasers (JA 444-448, 537-540, 719, 721, 723, 725, 727, 729-730). The packer-purchasers wanted scale tickets to support the total weights or summaries shown on the invoices. The petitioners merely issued counterfeit or false scale tickets to support false invoices.

The record shows without contradiction that in various transactions the petitioners substituted hogs which had not been weighed for hogs in drafts which had been weighed and billed the purchasers on the basis of weights obtained prior to the substitutions (JA 318-322, 331-334, 755-765). In various transactions the petitioners altered scale tickets and in some instances improperly added data on the scale tickets so as to show false or fictitious facts (JA 282-293, 733-754). Elaborate findings of fact were made by the Judicial Officer with respect to these transactions (JA 83-84).

All of the findings of fact by the Judicial Officer with respect to the many transactions involved in the case are supported by substantial evidence, on the record as a whole, and should be sustained on judicial review. The familiar substantial evidence rule applies in cases under this Act. *Berigan* v. *United States,* 257 F. 2d 852, 855-856 (C. A. 8); *Hyatt* v. *United States,* 276 F. 2d 308, 312 (C. A. 10).

The prohibitory terms of the Act plainly apply to the transactions in this case. Various transactions, in their totality, were at a posted stockyard (JA 83-87, 282-293, 319-322, 331-334, 733-754). In the other transactions, some of the hogs were purchased by the petitioners as "dealers" at posted stockyards and applied on orders received from the packer-purchasers by the petitioner Harry Lee Sparks at a posted stockyard. The audit of the petitioners' books and records was within well-established principles (see, *e.g.*, *United States* v. *Woerth,* 231 F. 2d 822, 824 (C. A. 8); *Rodgers* v. *United States,* 138 F. 2d 992, 996 (C. A. 6); *Tractor Training Service* v. *Federal Trade Comm.*, 227 F. 2d 420, 424 (C. A. 9), certiorari denied, 350 U. S. 1005).

II

The sanctions imposed in the order of the Judicial Officer are authorized by the Act. The authority to suspend a registrant under this Act has been upheld in a variety of circumstances, *e.g., Cella* v. *United States,* 208 F. 2d 783, 788 (C. A. 7), certiorari denied, 347 U. S. 1016; *Midwest Farmers* v. *United States,* 64 F. Supp. 91, 101-102 (3-Judge Court, D. Minn.).

The violations by the petitioners in the case at bar were "willful" as found by the Judicial Officer (JA 103). There is, therefore, no merit in the petitioners' reliance in their brief, pp. 21-23, on § 9(b) of the Administrative Procedure Act (5 U. S. C. § 1008(b)). In any event it was held in *Eastern Produce Co.* v. *Benson,* 278 F. 2d 606, 609 (C. A. 3), that "the test of willfulness" under § 9(b) of the Administrative Procedure Act is not "evil purpose or criminal intent, for this is not a criminal statute."

ARGUMENT

The violations of the Act, as shown by the evidence and the findings of fact by the Judicial Officer, are of wide-ranging character. These transactions or groups of transactions should be explained with some particularity in order to unfold the issues on appeal, including the petitioners' contention in their brief, pp. 8-12, that some of the transactions are not within the scope of the Packers and Stockyards Act.

I. The Petitioners, as Registrants under the Packers and Stockyards Act, Violated the Act and the Regulations (1) by Selling Hogs to Packers at False Weights and Giving False Invoices and False Scale Tickets to the Packers, (2) by Altering Scale Tickets and Adding Data to Scale Tickets, (3) by Substituting Hogs Which Had Not Been Weighed for Hogs Which Had Been Weighed, and (4) by Making False Entries in the Petitioners' Records and Causing False Entries to be Made in the Packers' Records.

A. *In 46 Transactions, Involving More than 22,000 Hogs, the Petitioners Sold the Hogs to Packers at False Weights and Gave False Invoices to the Purchasers and, in Some Instances, Gave False Scale Tickets.*

1. In 46 Transactions Hogs Were Sold by the Petitioners at False Weights and the Petitioners Gave False Invoices to the Purchasers.

An audit of the petitioners' books and records shows the 46 transactions in which the petitioners sold more than 22,000 hogs at false weights and gave false invoices to the purchasers (JA 134-135, 137, 142-144, 148-169, 190-191, 591-702, 707-715).

An exhibit, identified as Complainant's Exhibit No. 1 (JA 591-701) was received in evidence (JA 186), and it manifests the completeness of the audit of the petitioners' books and records. Another exhibit, identified as Complainant's Exhibit No. 2 (JA 702), was received in evidence (JA 186), and this exhibit relates, specifically, to numerous transactions in which the petitioners sold hogs at false weights and gave false invoices to the purchasers.[6] Complainant's

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[6] The data in Complainant's Exhibit No. 2 are also in Complainant's Exhibit No. 1 (JA 177). Complainant's Exhibit No. 2 (JA 702) sets forth specific data with respect to 45 transactions alleged in the complaint (JA 9, 11). Data relative to the August 29, 1956, transaction alleged in paragraph VI of the complaint (JA 11) are set forth in Complainant's Exhibit No. 1 (JA 669). These 46 transactions cover more than 22,000 hogs.

Exhibit No. 2 shows the date of each transaction, the name of the packer-purchaser, the name of each posted stockyard at which the petitioners purchased hogs, and the number of hogs in each shipment purchased by the petitioners at each of the stockyards (JA 702). The purchase weight of each lot of hogs is shown by the audit, and the audit also shows the weight at which the hogs were billed to the purchaser (JA 702). The hogs, in these transactions, were not reweighed but were sold to the purchasers at weights which were arbitrarily higher than the purchase *weights* (JA 157, 190-191, 230-234, 237, 238-239, 243, 702, 707-715). The hogs were sold and shipped to the packer-purchaser on the day the hogs were purchased by the petitioners (JA. 533). The auditor testified that, during the audit or investigation, every effort was made to ascertain whether the hogs were reweighed but he was informed by the petitioners' employees that there were no records of reweighing other than those which he examined (JA 157, 190-191, 230-234, 237, 243). There were no records, however, of reweighing with respect to the following 46 transactions in which, according to the audit and the testimony of the auditor, the petitioners sold hogs to various packers at false and incorrect weights (JA 157, 190-191, 234, 243, 702):

Date	Sold To	Number of Hogs	Purchase Weight (pounds)	Invoice Weight (pounds)	Weight Added (pounds)
1955					
Dec. 1	Swift & Co.	488	144,245	146,005	1,760
Dec. 10	Swift & Co.	835	214,080	216,390	2,310
Dec. 12	Swift & Co.	183	55,860	57,305	1,445
Dec. 14	Val Decker	404	89,340	90,340	1,000
Dec. 17	Swift & Co.	271	103,705	105,615	1,910
Dec. 19	Home Pkg. Co.	595	145,625	147,340	1,715
Dec. 21	Kingan	236	59,105	60,300	1,195
Dec. 26	Swift & Co.	403	112,205	113,800	1,595
Dec. 27	Home Pkg. Co.	256	56,990	57,490	500
Dec. 28	Swift & Co.	425	114,900	116,240	1,340
1956					
Jan. 10	Home Pkg. Co.	663	142,755	144,710	1,955
Jan. 21	Swift & Co.	581	167,490	169,490	2,000
Jan. 27 Jan. 28	Swift & Co.	861	212,965	215,525	2,560
Feb. 3	St. Louis Ind.	135	53,750	55,300	1,550
Feb. 11	St. Louis Ind.	130	54,250	55,430	1,180

Date	Sold To	Number of Hogs	Purchase Weight (pounds)	Invoice Weight (pounds)	Weight Added (pounds)
1956					
Feb. 13	Home Pkg. Co.	688	144,310	147,740	3,430
Feb. 16	Home Pkg. Co.	643	137,605	140,195	2,590
Mar. 7	Hunter Pkg. Co.	639	136,135	137,950	1,815
Mar. 12	Home Pkg. Co.	569	108,460	110,360	1,900
Mar. 16	John Morrell	326	103,370	105,085	1,715
Mar. 20	John Morrell	600	143,700	145,070	1,270
Mar. 20	Home Pkg. Co.	440	82,215	83,515	1,300
Mar. 27	Swift & Co.	351	80,870	81,870	1,000
Mar. 29	St. Louis Ind.	551	141,440	143,510	2,070
Apr. 9	Home Pkg. Co.	510	104,585	106,085	1,500
Apr. 16	Swift & Co.	343	81,555	82,735	1,180
Apr. 17	Home Pkg. Co.	576	112,625	114,425	1,800
Apr. 28	Home Pkg. Co.	396	74,355	75,905	1,550
May 1	Home Pkg. Co.	285	53,330	54,560	1,230
May 9	Home Pkg. Co.	530	107,315	108,815	1,500
May 11	Swift & Co.	194	79,365	80,365	1,000
May 22	Swift & Co.	400	144,260	145,460	1,200
June 4	John Morrell	332	134,020	135,365	1,345
June 12	Kingan Pkg. Co.	734	196,825	198,325	1,500
June 22	Oscar Mayer	165	55,030	55,490	460
July 21	Kingan	565	135,985	136,985	1,000
Aug. 13	Hunter Pkg. Co.	662	138,750	139,750	1,000
Aug. 22	Hunter Pkg. Co.	648	142,890	143,955	1,065
Aug. 29	Hunter Pkg. Co.	747	165,105	165,980	875
Sep. 6	Hunter Pkg. Co.	869	194,100	196,670	2,570
Sep. 7	Heil Pkg. Co.	744	168,200	169,700	1,500
Sep. 15	Kingan & Co.	994	220,290	222,290	2,000
Oct. 4	Swift & Co.	96	32,620	33,620	1,000
Oct. 20	Heil Pkg. Co.	353	80,325	81,400	1,075
1957					
Jan. 5	Swift & Co.	682	217,920	219,420	1,500
Jan. 31	St. Louis Ind.	256	57,000	57,950	950

There is nothing in the record to support the petitioners' assertion in their brief, p. 20, that, in these circumstances, hogs gain weight, and that the weight which the petitioners arbitrarily added to the purchase weight is to cover an estimated gain in weight. Their contention is also contrary to the evidence that hogs lose weight during the day they are being unloaded, sorted in pens, sold, and reloaded for shipment to the packer-purchasers (JA 238, 507). Mr. Ischer, the manager of the petitioners' office at Chapin, Illinois, testified that "[o]n occasions we have hogs that show a big loss in weight from the buy weights * * *" (JA 507). The evidence, in this respect, is consonant with well know facts. "Live hogs, while on the way from the farm to market or slaughterhouse, usually lose weight." *Shrinkage and Dressing Yields of Hogs* (Technical Bulletin No. 621, United States Department of Agriculture), p. 1.[7] "This was found to be true even when the animals were given feed and water en route." *Id.* at 4. "Tissue shrinkage apparently begins early in the period of transit and continues until hogs reach the packing plant." *Id.* at 8. "Tissue shrinkage takes place at a fairly constant rate during the early part of the transit period, but tends to continue at a lower rate as the time in transit is prolonged." *Ibid.*

The hogs, in these 46 transactions, were sold to packer-purchasers on the day the petitioners purchased the hogs (JA 533). There is, moreover, no evidence in the record that these hogs were fed during the relatively brief time that they were owned by the petitioners.[8] There is, in the record, no evidence that the hogs, in these 46 transactions, were reweighed prior to sale to the packer-purchasers. But the hogs were sold by the petitioners to the packer-purchasers at weights substantially in excess of the weights shown on the scale tickets at the time the petitioners acquired the hogs (JA 702). An employee of the petitioners said that weight was arbitrarily added on the invoices to the packer-purchasers (JA 233-234, 237, 731-732), and that hogs lose weight in handling (JA 507).

The failure of the petitioners, in these circumstances, to present evidence of reweighing gives rise to the inference that no such evidence was available or, if available, would not have tended to support the petitioners' contentions in the case. *Kirby* v. *Tallmadge*, 160 U. S. 379, 383; *Vajtauer* v. *Commissioner of Immigration*, 273 U. S. 103, 111; *Inter-*

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[7] Judicial notice may be taken of official publications. *Parker* v. *Brown*, 317 U. S. 341, 363; *Colonial Airlines* v. *Janas*, 202 F. 2d 914, 919, fn. 1 (C. A. 2); *United States* v. *Rice*, 176 F. 2d 373, 374, fn. 3 (C. A. 3).

[8] The petitioners' argument in their brief, pp. 19-20, based on expenditures for feed is misplaced inasmuch as there is no evidence that the hogs in these transactions were fed. Other hogs may have been placed in feeder-lots and fed for substantial periods by the petitioners, inasmuch as the petitioners operated two feed lots (JA 416-417).

state Circuit v. *United States,* 306 U. S. 208, 225-227. "[T]he failure to produce evidence, which under the circumstances would be expected, gives rise to a presumption against the party failing to produce it." *Neidhoefer* v. *Automobile Ins. Co. of Hartford, Conn.,* 182 F. 2d 269, 271 (C. A. 7). See also, *Clifton* v. *United States,* 4 How. 242, 247-248; *Chicago, M., St. P. & P. R. Co.* v. *Slowik,* 184 F. 2d 920, 924 (C. A. 8); 2 Wigmore, *Evidence* (3rd ed., 1940) § 285; *Jones on Evidence* (5th ed., 1958) § 27.

There is, however, more than an absence of evidence by the petitioners to show that the hogs in these 46 transactions were reweighed. George J. Ischer, Jr., the general manager of the branch of the petitioners' business operated under the name of Midwest Order Buyers, admitted that the weights shown on the invoices to the packer-purchasers were sometimes the "weights obtained by adding a certain amount to the original buy weights * * *" (JA 731-732). The admissory statement by George J. Ischer, Jr., with respect to the adding or falsification of weights, was first obtained in an affidavit which was introduced in evidence (JA 201-202, 205, 220-221, 505-507, 589-590). The affidavit by George J. Ischer, Jr., was read over the telephone to Harry Lee Sparks (one of the petitioners) before it was executed by George J. Ischer, Jr., the petitioner's employee (JA 202, 505-507, 589-590). When the affidavit was read, in the telephone conversation prior to the execution of the affidavit, the petitioner, Harry Lee Sparks, said, "Well, that's the way we operate and I'm going to have him [George J. Ischer, Jr.] sign it" (JA 202). Subsequently, George J. Ischer, Jr., testified in this proceeding and did not deny the truth of the admission in his affidavit (JA 505-506). Harry Lee Sparks, one of the petitioners, was present at the administrative hearing (JA 194) but failed to testify. The failure of the petitioner, Harry Lee Sparks, in these circumstances, to testify gives rise to the inference that his testimony would have been unfavorable to his argumentative position in the case. *Bilokumsky* v. *Tod,* 263 U. S. 149, 153-154; *Stoumen* v. *Commissioner of Internal Rev.,* 208 F. 2d 903, 907 (C. A. 3); *United States*

v. *Conforti,* 200 F. 2d 365, 369 (C. A. 7), certiorari denied, 345 U. S. 925; *Montgomery Ward & Co.* v. *National Labor Relations Bd.,* 107 F. 2d 555, 560 (C. A. 7).

The findings of fact by the Judicial Officer relative to these 46 transactions, involving more than 22,000 hogs, are supported—as we have shown, *supra,* pp. 22-26—by testimony, including the testimony of an employee of the petitioners, and the findings are also supported by the audit of the petitioners' books and records. There is no merit in the petitioners' contention in their brief, pp. 13-15, that the audit and the results of the audit should not have been received in evidence. A summary of voluminous records may be introduced in evidence, and it is sufficient if the original records from which the summary has been prepared are available to the opposing party. *Board of County Com'rs.* v. *William J. Howard, Inc.*. 230 F. 2d 561, 564 (C. A. 10), certiorari denied, 351 U. S. 926; *Gross* v. *United States,* 201 F. 2d 780, 787 (C. A. 9); *Yoffe* v. *United States,* 153 F. 2d 570, 574 (C. A. 1); *Augustine* v. *Bowles,* 149 F. 2d 93, 96 (C. A. 9); 4 Wigmore, *Evidence* (3rd ed., 1940) § 1230. It goes without saying that the petitioners' books and records were, at all times, available to the petitioners. Prior to the administrative hearing, the petitioners were informed that the audit of their books and records would be offered in evidence at the hearing, and copies of the audit were delivered to the petitioners prior to the administrative hearing (JA 147-148). Summaries in the nature of an audit are admissible in administrative hearings.[9] *Chicago Board of Trade* v. *United States.* 96 App. D. C. 56, 223 F. 2d 348, 354; *Willapoint Oysters, Inc.* v. *Ewing.* 174 F. 2d 676, 691 (C. A. 9), certiorari denied, 338 U. S. 860.

It is also asserted by the petitioners in their brief, pp. 13-15, that the audit of the petitioners' books and records was broader than was appropriate, and that it could be used by the Department only on the basis of consent by the petitioners. The petitioners' contentions in their brief are broader, in this respect, than their objections at the time the audit was received in evidence (JA 185-186),[10] but assuming, *arguendo,* that appropriate objections were fully made during the hearing, it is plain that their contentions in their brief are without merit in view of (1) the petitioners' transactions and method of keeping books and records and (2) the regulatory requirements relative to books and records.

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[9] The technical rules of evidence, applicable in civil trials in court, are not applicable in administrative hearings. *Federal Trade Comm.* v. *Cement Institute.* 333 U. S. 683. 706; *Wallace Corp.* v. *Labor Board,* 323 U. S. 248. 253; *Opp Cotton Mills* v. *Administrator,* 312 U. S. 126, 155; *National Labor Rel. Bd.* v. *Imparato Stevedoring Corp.,* 250 F. 2d 297, 303 (C. A. 3).

The sales and financial records of Harry Lee Sparks and Rex Wanda Sparks, doing business as H. L. Sparks and Company, H. L. Sparks & Company of Bushnell, H. L. Sparks & Company of Peoria, and H. L. Sparks & Company of Springfield, were maintained at the petitioners' office in Chapin, Illinois (JA 80, 137, 142-145, 510-512). The records kept and maintained by the petitioners at Chapin show the integrated nature of the petitioners' business operations. The petitioners' records at the posted stockyards were incomplete and failed to show the disposition of livestock purchased by the petitioners at the posted stockyards, and it was only by an examination of the books and records of Midwest Order Buyers at Chapin, Illinois, that such disposition of livestock could be determined (JA 137, 142-143, 145). The petitioners, as partners, engaged in business under five partnership names, including the name of Midwest Order Buyers (JA 7-8, 19, 431-432), and the business was conducted in the following manner: The petitioner, Harry Lee Sparks, at the office of H. L. Sparks and Company at the St. Louis National Stock Yards, received orders for hogs from packers and, in addition to the hogs which were purchased by the petitioners at the St. Louis National Stock Yards to fill the orders, the petitioners purchased hogs at the posted stockyards at Bushnell, Peoria, and Springfield and at various country buying points (JA 80, 431-432, 510-512, 520). The petitioner, Harry Lee Sparks, called the office of the Midwest Order Buyers at Chapin daily and instructed the manager there with respect to the various transactions in hogs and how the orders were to be filled (JA 80, 431-432, 510-512, 520). The 46 transactions involved here include hogs purchased by the petitioners at posted stockyards (JA 156-157, 702).

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[10] The grounds for an objection must be given during the administrative hearing in order to present the issues on appeal. *United States* v. *Tucker Truck Lines,* 344 U. S. 33, 36-37; *Unemployment Comm'n.* v. *Aragon,* 329 U. S. 143, 155.

The petitioners are required by the administrative regulations, in effect pursuant to the statute, to "make and keep an accurate record of the number and weight of livestock bought and sold and otherwise disposed of each business day, the prices paid or received therefor, and the charges made for services." 9 CFR § 201.46(a). Each dealer is required by the regulations to permit, upon request during ordinary business hours, a representative of the Secretary to "examine records requested pertaining to the business of the * * * registrant * * * and to make copies thereof * * *." 9 CFR § 201.95. Inasmuch as the records of the petitioners which were inspected by the Department's auditor were required, by the regulations, to be kept by the petitioners, it was not necessary to obtain the petitioners' consent in order to inspect the records and make the audit. To be sure, it is declared in the petitioners' brief, p. 9, that Midwest Order Buyers—owned by the petitioners, as partners—"did not do any business on a posted stockyard." The petitioners, however, as partners bought hogs at posted stockyards, and some of the hogs thus acquired at posted stockyards are involved in all of these transactions.[11] The jurisdiction of the Secretary, under the terms of the Packers and Stockyards Act, could not be divested by book entries showing that a dealer, as the owner of livestock which the dealer purchased at a posted stockyard, transferred the livestock to himself. *United States* v. *Woerth,* 231 F. 2d 822, 824 (C. A. 8). If some of the records inspected pertain to transactions which are not within the scope of the Act, the fact that the petitioners "may have intermingled irrelevant information in the records in question cannot serve to defeat the right of the Secretary of Agriculture to examine these records as to transactions which had their origin in the activities" of a person "as a registered dealer" under the Packers and Stockyards Act. *Ibid.*

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[11] Assuming, *arguendo*, that the various partnerships are separate legal entities carrying on separate businesses, the business transactions here are so integrated as to require that the separate legal entities be disregarded, *i.e.*, the facts warrant the "piercing" of the partnership veil. *Corn Products Refining Co.* v. *Benson*, 232 F. 2d 554 (C. A. 2); *Mansfield Journal Co.* v. *Fed. Comm. Comm.*, 86 App. D. C. 102, 180 F. 2d 28, 37; *National Labor Relations Bd.* v. *E. C. Brown Co.*, 184 F. 2d 829, 831 (C. A. 2); *E. Albrecht & Son, Inc.* v. *Landy*, 114 F. 2d 202, 204 (C. A. 8). It is well settled that the

The petitioners' business as a registered dealer at a posted stockyard is not a private enterprise, but as held in *Cella* v. *United States,* 208 F. 2d 783, 789 (C. A. 7), certiorari denied, 347 U. S. 1016, and *Farmers' Livestock Commission Co.* v. *United States,* 54 F. 2d 375, 378 (3-Judge Court, E. D. Ill.), the petitioners' registration as a dealer, at a posted stockyard, is a privilege granted by the Secretary pursuant to the Packers and Stockyards Act. The records thus inspected by the Department's auditor were required to be kept by the Act, and these public records may be examined by the administrative agency (*Davis* v. *United States,* 328 U. S. 582, 587-595; *Shapiro* v. *United States,* 335 U. S. 1, 33-36). It was held in *Cudahy Packing Co.* v. *Fleming,* 122 F. 2d 1005, 1009 (C. A. 8), reversed on other grounds, 315 U. S. 785, that where a person "is engaged in operating more than one plant or establishment, and seeks to claim that a part of such plants is subject to the [Fair Labor Standards] Act and another is not, there can be no possible question as to the right of the Adminis-

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"corporate device may be disregarded when failure to do so would enable the corporate device to be used to circumvent a statute." *Alabama Power Co.* v. *McNinch,* 68 App. D. C. 132, 94 F. 2d 601, 618. The principle in the *McNinch* case is, by a parity of reasoning, manifestly applicable here. See also, *Great Northern Co-op. Ass'n.* v. *Bowles,* 146 F. 2d 269, 271 (Emerg. C. A.); *Ohio Tank Car Co.* v. *Keith Ry. Equipment Co.,* 148 F. 2d 4, 6 (C. A. 7), certiorari denied, 326 U. S. 730.

trator to inspect the shipment records of all of them, in order to determine the scope of the operations of each and the relationship between them."

The keeping of complete and correct records and their inspection, from time to time, by the administrative agency are "important and essential means in the accomplishment of the purposes of the Packers and Stockyards Act." *Hyatt v. United States,* 276 F. 2d 308, 312 (C. A. 10). See also, *Interstate Commerce Comm. v. Goodrich Transit Co.,* 224 U. S. 194, 211. The audit of the petitioners' books and records was a proper proceeding, in these circumstances, and the audit and the testimony of the auditor were proper matters of evidence at the hearing.

There remains for brief comment the testimony of Joseph H. Gilby, an employee of the petitioners, in an effort to rebut the evidence that in these 46 transactions, involving more than 22,000 hogs, the petitioners sold the hogs at false weights and gave false invoices to the purchasers. The testimony of this witness as asserted in the petitioners' brief, pp. 15-17, shows that the additions or falsifications of weight are not as great, in some transactions, as shown by the audit and the testimony of the Department's auditor. The example in the petitioners' brief, pp. 15-17, is intended to show—as concluded in the petitioners' brief, p. 17—that the added or falsified weight in one of the transactions came to 610 pounds but that it should have been assigned to 239 hogs instead of 136 hogs. "Obviously," as said by the petitioners in their brief, p. 17, "the gain per hog is greater when 610 pounds are allocated to 136 hogs instead of to 239 hogs." The record does not support the petitioners' contention that the added or false weight should be allocated to 239 hogs instead of 136, but the short answer to the petitioners' argument is that assuming, *arguendo,* that their allocation of the false weight is correct, nonetheless selling 239 hogs at a false weight is a violation of the Act as well as selling 136 hogs at false weight. The Act prohibits a dealer or market agency from engaging in or using "any unfair * * * or deceptive practice * * * in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of livestock." 7 U. S. C. 1952 ed. § 213(a). There is no exception in the Act so as to allow some sales at false weights or to allow the giving of some false invoices. Any unfair or deceptive practice by a dealer or market agency is unqualifiedly prohibited.

There is another circumstance which militates against giving weight or significance to the testimony of the petitioners' witness, Joseph H. Gilby, with respect to the numerous transactions involved here. His testimony is, in the main, based on exhibits which, as found by the Judicial Officer, "were prepared by unnamed persons in Chapin and sent to Gilby in Chicago" (JA 96; 19 Agr. Dec. 709, 727). "He testified that such exhibits were prepared under his supervision, but his unfamiliarity with them indicates that he was probably not qualified to testify with respect thereto" (*ibid.*). He said that his testimony was based on what he had been told by various employees of the petitioners (JA 451-452). "His testimony was hearsay and can be described generally as being based on what he was told was the case and not necessarily what was the case" (JA 97; 19 Agr. Dec. 709, 728).

The cross-examination of the petitioners' witness, Joseph H. Gilby, with respect to one of the transactions about which he testified, reveals some of the infirmities in his testimony. This transaction, *i.e.*, the first transaction alleged in paragraph IV of the complaint, relates to 488 hogs which were sold to Swift & Company (JA 702). The petitioners purchased 167 of these hogs at the posted stockyard in Springfield (JA 702). One of the exhibits relied on by the petitioners' witness, Joseph H. Gilby, shows that 55 of the 167 hogs purchased at Springfield were shipped to Chapin, Illinois, where they were unloaded and then the truck returned to Springfield (JA 844). The petitioners' witness, Joseph H. Gilby, was asked five times on cross-examination to identify the petitioners' records from which these data with respect to the 55 hogs were obtained, and the witness was unable to do so (JA 363-367). The witness testified, however, that the 167 hogs were shipped to Chapin in two lots, *viz.*, 55 hogs in one lot and 112 hogs in the other lot (JA 366-367). Later, however, the witness changed his story and stated that 55 hogs were originally shipped to Chapin by truck, and that the operator of the truck returned to Springfield to pick up 20 additional hogs (JA 373-374).[12] Neither explanation by the witness, however, is correct. The records, as shown by the audit and the testimony of the auditor, make it plain that the 167 hogs were shipped from Springfield in two lots, *viz.*, 92 hogs in one lot and 75 hogs in another (JA 566-568, 571-572, 766-767), and there was no lot of 55 hogs shipped from Springfield as testified to by the petitioners' witness.

The testimony of the petitioners' witness, Joseph H. Gilby, with respect to the scale tickets representing the reweighing of hogs, is contradicted by one of the petitioners' employees. The witness, Gilby, testified that all scale tickets were sent to the petitioners' office in Chapin (JA 412). But Edgar McNay, the manager of the petitioners' business in Quincy, testified that the scale tickets with respect to the reweighing of hogs at Quincy were retained there (JA 553), and the same buying practices were followed by the petitioners in the other stockyards (JA 563). Here, as in *The Santissima Trinidad*, 7 Wheat. 283, 337, the testimony, on behalf of the petitioners, is "much shaken by the manifest contradictions which it involves." The Hearing Examiner "who was in the position to observe the demeanor of Gilby placed little or no credence on the testimony of this witness" (JA 97; 19 Agr. Dec. 709, 728). See also, *Great Western Food Distributors* v. *Brannan*, 201 F. 2d 476, 479 (C. A. 7), certiorari denied, 345

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[12] The reason given by the witness for changing his explanation or story is that he asked another employee of the petitioners as to "what my [*i.e.*, the witness'] recollection was * * *" (JA 374). The testimony of a witness is to be measured, for valuation purposes, by the principle that a "witness, who at different times gives different versions of the same transaction, and blows hot or cold as his interest in the particular litigation may require, can scarcely complain if the court fail[s] to give his testimony the weight to which it would otherwise be entitled." *Richmond Nervine Co.* v. *Richmond*, 159 U. S. 293, 302.

U. S. 997; *Cella* v. *United States*, 208 F. 2d 783, 788 (C. A. 7), certiorari denied, 347 U. S. 1016.

There is a further weakness with respect to Gilby's testimony. The petitioners failed to make any effort to support Gilby's testimony by introducing their books or records or making them available at the hearing. The significance of their failure is underscored by the fact that, at the outset of the hearing, evidence was introduced to show that, on the basis of an audit by the Packers and Stockyards Division of the Department with respect to the petitioners' books and records, the hogs in these 46 transactions had not been reweighed, and that the petitioners had no records to show a reweighing of the hogs. That audit was made many months prior to the administrative hearing. "[I]n the absence of reweigh records either offered in evidence or produced for * * * examination at the hearing there is little or no probative value to the exhibits and testimony" by the petitioners' witness, Joseph H. Gilby (JA 96; 19 Agr. Dec. 709, 727).

The evidence, on the record as a whole, shows that the petitioners violated the Act in these 46 transactions in which they sold hogs at false weights and, also, gave false invoices to the purchasers.

2. In Various Transactions, the Petitioners Issued False or Counterfeit Scale Tickets to the Purchasers of the Hogs.

In some of the transactions in which—as we have shown, *supra*, pp. 22-34—the petitioners sold hogs to the packers at false weights and gave false invoices, the petitioners also violated the Act and the regulations by issuing false or counterfeit scale tickets to the purchasers. In some transactions the packer-purchasers requested scale tickets to support the weights listed on the invoices submitted to them in connection with the hogs which they purchased from the petitioners (JA 538-540).

The scale tickets which, it is alleged (JA 10-11), were counterfeit or false were introduced in evidence (JA 717, 719, 721, 723, 725, 727, 729-730). Also, there were introduced in evidence some scale tickets which, admittedly, were printed on the petitioners' scale in Chapin, Illinois (JA 195-201, 247-252, 255). Mr. Francis J. Major, an expert examiner of questioned documents, testified that he had compared the weight impressions on the scale tickets issued by the petitioners to the packer-purchasers with the weight impressions on the scale tickets which, admittedly, had been printed on the petitioners' scale in Chapin, and that it was the conclusion of the witness that the weight impressions on the questioned documents were made on the petitioners' scale in Chapin (JA 257-282). The witness gave detailed reasons for his conclusion and was subjected to vigorous cross-examination (JA 266-281).[13] The scale platform of the petitioners' scale in Chapin was small and could not accommodate more than approximately 22 hogs at a time (JA 197). The scale tickets which the petitioners submitted to the packer-buyers were, however, for a greater number of hogs in each lot (JA 717, 719, 721, 723, 725, 727, 729-730). Subsequent to the presentation of that evidence, the petitioners admitted in the administrative hearing that the scale tickets issued by the petitioners to the packer-purchasers in these transactions had been printed by the petitioners upon its scale in Chapin, that no hogs were on the scale when the tickets were printed, and that there were no actual weights to support any of the weight figures appearing on the scale tickets (JA 444-448, 537-540). The record shows, therefore, that all of the weights appearing on these counterfeit scale tickets were false and fictitious.

It is contended, however, by the petitioners in their brief, pp. 23-24, that the counterfeit or false scale tickets were really "summaries" of drafts of hogs that had been weighed elsewhere. The scale tickets, however, did not summarize anything. Specific weights for individual lots of hogs are shown on the scale tickets (JA 717, 719, 721, 723, 725, 727,

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[13] There is no basis for the petitioners' statement in their brief, p. 24, that notwithstanding their denials in their answer they would have stipulated that the false or counterfeit scale tickets were printed on their scale in Chapin and that no hogs were on the scale when the tickets were printed.

729-730). The invoices to the packers contained the summaries (JA 716, 718, 720, 722, 724, 726, 728). The invoices showed the total number of hogs and the total weights. The packer-purchasers wanted scale tickets to support those total weights or summaries shown on the invoices. The petitioners issued scale tickets which were counterfeit and falsely represented that particular lots of hogs had been weighed at certain weights. As we have shown, *supra*, pp. 22-34, the invoices in these transactions were false, and the petitioners were merely issuing counterfeit or false and fictitious scale tickets in support of false invoices.

The scale ticket is, manifestly, an important document in a transaction of this character (see, *e.g.*, *Cella* v. *United States*, 208 F. 2d 783, 786 (C. A. 7), certiorari denied, 347 U. S. 1016), and the use of counterfeit or false and fictitious scale tickets is a serious and flagrant violation of § 312(a) of the Act (7 U. S. C. 1952 ed. § 213(a)). The issuance of counterfeit or false and fictitious scale tickets is also violative of § 201.55 of the administrative regulations (9 CFR § 201.55).

B. *In Various Transactions, the Petitioners Substituted Hogs Which Had Not Been Weighed for Hogs in Drafts Which Had Been Weighed and Billed the Purchasers on the Basis of Weights Obtained Prior to the Substitutions.*

The record contains the testimony of witnesses with respect to their observations at the St. Louis National Stock Yards relative to the petitioners' substituting hogs which had not been weighed for hogs in drafts which had been weighed (JA 318-322, 331-334), and the packer-purchasers were billed on the basis of the weights obtained prior to the substitutions (JA 755-765). This evidence in the record is without contradiction.

The substitution of hogs which had not been weighed for hogs which had been weighed and the billing of purchasers on the basis of weights obtained prior to the substitutions constitute unfair and deceptive practices in violation of § 312(a) of the Act (7 U. S. C. 1952 ed. § 213(a)).

C. *In Various Transactions, the Petitioners Altered Scale Tickets and, in Some Instances, Improperly Added Data on the Scale Tickets so as to Show False or Fictitious Facts.*

The evidence adduced at the administrative hearing shows that, in various transactions, the petitioners made alterations on copies of scale tickets by changing the number of head of livestock listed thereon (JA 282-286, 733, 735, 737, 739), and that these altered scale tickets were used as a basis for billing the purchasers of the hogs (JA 282-286, 734, 736, 738, 740). In one of the transactions—which is typical of all of the transactions—the scale ticket retained in the records of the stockyard company shows the weighing of 144 hogs at a total weight of 20,860 pounds, whereas the petitioners changed their copy of this scale ticket so as to show that the head count was 138 hogs instead of 144 (JA 282-283, 733). The petitioners' invoice to the purchaser of these hogs shows that the hogs were billed to the purchaser on the basis of the altered head count of 138 and the original weight. (JA 284, 734).

The only evidence submitted by the petitioners with respect to these transactions was the testimony of their witness, Joseph H. Gilby, who admitted that he had no personal knowledge of these transactions, could not identify any employee of the stockyard company who might have anything to do with these transactions, did not discuss these transactions with any of the personnel of the stockyard company, did not know the names of the weighers involved, and could not identify the names of the employees of the petitioners with whom he discussed these transactions (JA 451-454). His statement, therefore, that someone had told him that the changes were made by the petitioners at the direction of the stockyard weighmaster has no probative value (JA 100-101). The explanation of the witness is also contrary to the well-established practice at the stockyard to the effect that a weighmaster who alters or directs the alteration of a copy of a scale ticket makes a corresponding change on the original scale ticket which is retained by the stockyard company (JA 316-317).[14]

In additional transactions with respect to the sales of hogs by the petitioners at the St. Louis National Stock Yards, the petitioners made entries on copies of scale tickets retained in their records which were different from, or in addition to, the entries appearing on the original scale tickets (JA 286-293, 741, 743, 745, 747, 749, 751, 753). The entries which the petitioners made on their copies of the scale tickets represented that certain numbers of hogs had been weighed at specified weights, but those entries were not found on the original copies of the scale tickets retained by the stockyard company, and there were no weighing transactions at the stockyard to support any of those false entries by the petitioners (JA 286-293, 741-754). In these transactions, the petitioners sold hogs to the purchasers and billed the purchasers on the basis of the entries made by the petitioners on the copies of the scale tickets (JA 741-754). Elaborate findings of fact were made by the Judicial Officer with respect to these transactions (JA 83-84; 19 Agr. Dec. 709, 717-718). The petitioners' witness, Joseph H. Gilby, admitted that it was the regular practice of the petitioners to make additional entries on copies of scale tickets and to issue invoices to purchasers on the basis of such entries (JA 495).

The altering of head counts shown on the scale tickets and the billing of the purchasers on the basis of the altered scale tickets and the making of entries falsely representing that hogs had been weighed at certain weights and the billing of the purchasers on the basis of such entries are unfair and deceptive practices in violation of § 312(a) of the Act (7 U. S. C. 1952 ed. § 213(a)). The petitioners' failures to keep accounts, records, and memoranda which fully and correctly disclosed the true nature of all transactions involved in the business and the making of false entries by them on accounts, records, and memoranda kept by them constitute violations of § 401 of the Act (7 U. S. C. 1952 ed. § 221) and § 402 of the Act, which makes applicable § 10 of the Federal Trade Commission Act (15 U. S. C. § 50).

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[14] The well-established method of doing business by a person or business concern may be relevant to an issue as to whether, in a particular case, the business was transacted in that way. 2 Wigmore, *Evidence* (3rd ed., 1940) § 377.

D. *The Findings of Fact by the Judicial Officer Are Supported by Substantial Evidence, on the Record as a Whole, and Should Be Sustained on Judicial Review.*

The petitioners' points, on appeal, do not present an issue as to whether substantial evidence, on the record as a whole, supports the findings of fact by the Judicial Officer (JA 122-125). But the petitioners, in their brief, *e.g.*, p. 26, contend that adequate evidence does not support some of the administrative findings. We have discussed the evidence, *supra*, pp. 22-38, relative to the various transactions or groups of transactions. The record, as a whole, establishes all of the violations and supports, adequately, the administrative findings.

It was held in *Berigan* v. *United States*, 257 F. 2d 852 (C. A. 8), a case under the Packers and Stockyards Act, that the courts are not to weigh the evidence to determine in which direction it preponderates (*id.* at 855-856), and it is sufficient if the findings of fact by the administrative agency are based on "substantial, even if conflicting, testimony" (*id.* at 860). An appellate court is not to consider the evidence *de novo* or substitute its judgment for that of the Judicial Officer. *Id.* at 856. The record is to be viewed as a whole in determining whether substantial evidence supports the administrative findings (*ibid.*), and in performing this function the appellate court is to view the evidence in a light most favorable to the findings and conclusion by the administrative agency (*id.* at 855-856). The metes and bounds of judicial review were similarly outlined in *Hyatt* v. *United States*, 276 F. 2d 308, 312 (C. A. 10), a case under this statute.

The holdings in *Berigan* v. *United States*, 257 F. 2d 852, *supra*, and *Hyatt* v. *United States*, 276 F. 2d 308, *supra*, are in accord with numerous decisions under other regulatory statutes. See, *e.g.*, *National Labor Relations Board* v. *Brown & Root, Inc.*, 203 F. 2d 139, 147 (C. A. 8); *National Labor Relations Bd.* v. *Cold Spring Granite Co.*, 208 F. 2d 163, 165 (C. A. 8). The function of drawing inferences from the evidence is for the administrative agency and the courts are not to substitute their judgment, as to the inferences to be drawn from the evidence, for that of the administrative agency. *Radio Officers* v. *Labor Board*, 347 U. S. 17, 48-52; *Foreman & Clark, Inc.* v. *National Labor Relations Bd.*, 215 F. 2d 396, 398 (C. A. 9), certiorari denied, 348 U. S. 887; *Great Western Food Distributors* v. *Brannan*, 201 F. 2d 476, 480 (C. A. 7), certiorari denied, 345 U. S. 997. "The court may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported." Davis, *Administrative Law Treatise*, § 29.05. It is sufficient if the inference may reasonably be based on the evidence. *Ibid.*

E. *The Prohibitory Terms of the Act Apply to the Transactions in This Case.*

The transactions in which the petitioners substituted hogs which had not been weighed for hogs in drafts which had been weighed and altered scale tickets took place at a stockyard which had been "posted" for regulation pursuant to the Act (JA 7, 19, 282-293, 319-322, 331-334, 733-754). One of the transactions, for example, was with respect to hogs at the St. Louis National Stock Yards and the original scale ticket showed that 144 hogs had been weighed, but the petitioners changed the head count on their copy of the scale ticket so as to show that 138 hogs had been weighed (JA 733). The findings of fact by the Judicial Officer show that all of the transactions involving the use of altered scale tickets, scale tickets to which data had been added, and the substitution of hogs which had not been weighed for hogs which had been weighed were transactions at a posted stockyard (JA 83-87). These transactions, in their totality, were at a posted stockyard. There can be no doubt that these transactions are within the prohibitory terms of the Packers and Stockyards Act.

Although the so-called jurisdictional issue is presented in the petitioners' points on appeal, nonetheless in the petitioners' brief, pp. 8-12, the only argument, in this respect, relates to the 46 transactions in which the petitioners are charged with having sold hogs at false weights.[15] The petitioners' contention in their brief, pp. 8-12, that the 46 transactions in which they sold hogs at false weights are not within the prohibitory terms of the Act is also without merit. The petitioners conducted their business under five names, but it is one business, and the petitioners, in legal effect, do not sell to themselves and buy from themselves. The petitioner, Harry Lee Sparks, receives orders from various packers for hogs, and those orders are supplied by the petitioners by means of purchases by them at posted stockyards and at various country points (JA 431-432, 510-512, 520). The petitioners, as dealers, under the Packers and Stockyards Act, purchased hogs at three posted stockyards in these 46 transactions (JA 156-157, 702). The petitioners cannot avoid or circumvent the regulatory provisions of the Act merely by alleging that they sold hogs to themselves, and then delivering the hogs to the packer-purchasers. *United States* v. *Woerth*, 231 F. 2d 822, 824 (C. A. 8).

In *Stone* v. *United States*, 286 F. 2d 56, 57 (C. A. 8), it was said that the "transactions as shown by the sales tickets were sales in which the defendant acted both as seller and buyer" of the wool, but, said the Court, these "purported sales do not, of course, constitute sales within the meaning of the Wool Act and regulations implementing the Act." By a parity of reasoning, the alleged sales by the petitioners to the petitioners, in the case *sub judice*, cannot avoid the statutory provisions.[16] Here as in *Woolford Realty Co.* v. *Rose*, 286 U. S. 319, 330, the petitioners' interpretation of the Act would foster the "opportunity for juggling so facile and so obvious" that it cannot be accepted as a reasonable interpretation of the statutory provisions. To uphold the petitioners' contention that they sold hogs to themselves would exalt artifice or fiction above reality, and deprive the remedial Act of serious purpose.

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[15] The petitioners' failure to assert or argue that the record fails to show that the other transactions—*i.e.*, those in which the petitioners substituted hogs which had not been weighed for hogs which had been weighed and altered scale tickets or added data to scale tickets—are not within the scope of the Act is to be regarded as an abandonment or waiver on the part of the petitioners with respect to their original, broad contention and a limitation of the contention to the specific transactions referred to in the petitioners' argument. *Jackson* v. *Fuller*, 66 App. D. C. 239, 85 F. 2d 816, 818, certiorari denied, 299 U. S. 608; *Abrams* v. *American Security and Trust Co.*, 72 App. D. C. 79, 111 F. 2d 520, 521. See also, *Southeastern Express Co.* v. *Robertson*, 264 U. S. 541, 542; *Schnitzer* v. *United States*, 77 F. 2d 233, 235 (C. A. 8); *United States* v. *Chicago, B. & Q. R. Co.*, 82 F. 2d 131, 133 (C. A. 8), certiorari denied, 298 U. S. 689; *McNamara* v. *Hart*, 83 F. 2d 649, 651 (C. A. 8).

In each of the 46 transactions in which the petitioners sold hogs at false weights, some of the hogs were purchased by the petitioners as "dealers" at posted stockyards and applied on orders received from the packer-purchasers by the petitioner, Harry Lee Sparks, at the St. Louis National Stock Yards (JA 156-157, 431-432, 520, 702). Each of these transactions was, *ex necessitate*, in connection with the selling of hogs by a dealer at a posted stockyard. Hence, the petitioners' reliance in their brief, pp. 10-12, on legislative history of the Act relative to transactions which are entirely at non-posted stockyards is misplaced.

It is provided in § 312(a) of the Act that it shall be unlawful for a dealer to engage in or use "any unfair * * * or deceptive practice * * * *in connection with* the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of livestock [emphasis supplied]" (7 U. S. C. 1952 ed. § 213(a)). In these transactions, the petitioners were engaged in the selling of hogs purchased by them at the posted stockyards at Bushnell, Springfield, and Peoria to packer-purchasers at a posted stockyard, *i.e.*, the St. Louis National Stock

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[16] An arrangement which does not constitute a purchase or sale "in any realistic sense" cannot be held to be a purchase or sale. *Swift & Company* v. *United States*, 257 F. 2d 787, 795 (C. A. 4), certiorari denied, 358 U. S. 837.

Yards, and the false and incorrect weights and invoices were "in connection with" the selling of those hogs. "All practices *in connection with* the livestock passing through the yards shall be just, reasonable, nondiscriminatory, and nondeceptive [emphasis supplied]." *Stafford* v. *Wallace,* 258 U. S. 495, 513-514.

The business practices which are "in connection with" the furnishing of the services or facilities at a posted stockyard are not defined in the Act and are necessarily to be determined in view of the mutable arrangements or operations in livestock marketing. The statutory terms are of general import and are to be applied not in an artificial way but to the different and changing situations day by day in a great industry in operation. *State of Colorado* v. *United States,* 219 F. 2d 474, 476 (C. A. 10); *United States* v. *Donahue Bros.,* 59 F. 2d 1019, 1022 (C. A. 8). See also, *Gilbert R. Smith* v. *Union Stockyards Co.,* 9 Agr. Dec. 588, 597; *Flynn* v. *Kansas City Stock Yards Co.,* 12 Agr. Dec. 14, 23-27; *Farmers Union Livestock Ass'n.* v. *St. Paul Union Stock Yards,* 12 Agr. Dec. 1026, 1032-1033; *Dougherty* v. *Union Stock Yards & Transit Co.,* 13 Agr. Dec. 239, 245.

It is not possible on the basis of the invoices submitted to the petitioners' customers in these 46 transactions to separate the hogs purchased at posted stockyards from the hogs purchased at country points. The invoice in each transaction does not identify the source of the hogs covered thereby, although, admittedly, the hogs had been purchased at several places, including a posted stockyard. The false weight which was added in each transaction was to the entire lot of hogs and not to a portion only. The terms of the statute should be interpreted to achieve the cardinal legislative purpose. Here, as in *American Trucking Ass'n.* v. *United States,* 344 U. S. 298, 311, it would be "an unnatural construction" of a remedial Act to require an administrative agency "to sit idly by and wink at practices" which are subversive of effective regulation. Absolute integrity on the part of a dealer or market agency is essential to the proper operation of public stockyards. "[T]he success of the livestock producing industry of the country in a large measure depends on the business practices of the stockyard agencies that sell livestock of great value. To say that much depends on the integrity and ethics of those engaged in marketing livestock is speaking mildly." *Midwest Farmers* v. *United States,* 64 F. Supp. 91, 95 (3-Judge Court, D. Minn.).

The petitioners insisted, to be sure, during the Department's investigation of their transactions that the transactions at "country points"—*i.e.,* at markets which were not posted under the Packers and Stockyards Act—are not within the Department's authority under the statute (JA 477-479). Records, however, with respect to the petitioners' transactions at posted stockyards were maintained at Chapin, as a part of the records identified as Midwest Order Buyers, and it was necessary for the petitioners' books and records at Chapin to be audited in order for the Department to determine the petitioners' disposition of livestock which the petitioners purchased at posted stockyards and intermingled with the livestock from other markets (JA 135-137, 145, 150, 376, 510-512). The petitioners made all of their books and records available to the Department's auditor, and the narrow grounds on which the petitioners objected to the introduction of the audit in evidence (JA 185-186) are manifestly without substance. In any event the auditing of the books and records was within well-established principles. *United States* v. *Woerth,* 231 F. 2d 822, 824 (C. A. 8). *Rodgers* v. *United States,* 138 F. 2d 992, 996 (C. A. 6); *Tractor Training Service* v. *Federal Trade Comm.,* 227 F. 2d 420, 424 (C. A. 9), certiorari denied, 350 U. S. 1005; *United States* v. *Harte-Hanks Newspapers,* 254 F. 2d 366, 369 (C. A. 5), certiorari denied, 357 U. S. 938; *United States* v. *Sclafani,* 265 F. 2d 408, 414-415 (C. A. 2), certiorari denied, 360 U. S. 918; *United States* v. *Wheeler,* 275 F. 2d 94, 96-97 (C. A. 3), certiorari denied, 363 U. S. 828.

The transactions here are with respect to hogs which were marketed at posted stockyards, and all of the records and papers are in connection with the marketing of the hogs at posted stockyards. The terms of the Act plainly apply to all of these transactions.

II. The Administrative Sanctions Prescribed by the Judicial Officer Are in Accordance with the Relevant Statutory Provisions.

The sanctions imposed in the order of the Judicial Officer are expressly authorized by the Packers and Stockyards Act. The administrative agency is authorized to order a dealer to cease and desist from violating the Act, and if a dealer is found to have violated the Act the administrative agency is authorized to suspend the registration of the dealer for a reasonable specified period. 7 U. S. C. 1952 ed. §§ 204, 211, 213.[17]

The authority to suspend a registrant under this Act has been upheld in a variety of circumstances. *E.g.*, in *Cella* v. *United States,* 208 F. 2d 783, 788 (C. A. 7), certiorari denied, 347 U. S. 1016, the period of suspension was for six months, and in *Midwest Farmers* v. *United States*, 64 F. Supp. 91 (3-Judge Court, D. Minn.), involving the "suspension of the petitioners' registration * * * with the Department of Agriculture for one year in the *Midwest* and *Crosby* cases," it was held that the "court in these cases has no discretion or control over the period of the suspension so long as the order of suspension was not so unsupported by the evidence as to be arbitrary or capricious" (*id.* at 101-102), and "the question whether or not the disciplinary action taken by the Secretary * * * is unduly severe is not a question with which the court properly can concern itself" (*id.* at 102). See also, *Irving Weis & Co.* v. *Brannan,* 171 F. 2d 232, 235 (C. A. 2), and *Great Western Food Distributors* v. *Brannan,* 201 F. 2d 476 (C. A. 7), certiorari denied, 345 U. S. 997, involving suspensions of licenses in analogous situations under the Commodity Exchange Act.

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[17] The terms of the Packers and Stockyards Act are, in this respect, similar to provisions in other statutes. See, *e.g.*, the Commodity Exchange Act, 7 U. S. C. § 9; the Perishable Agricultural Commodities Act, 7 U. S. C. § 499h(a); the authority of the Postmaster General under 39 U. S. C. § 259; and the authority of the Board of Governors of the Federal Reserve System pursuant to 12 U. S. C. § 301.

The seriousness of the violations in the case at bar is emphasized by the fact that the petitioners have previously violated the Act in respects similar to the violations here (JA 84, 101). The suspension of the petitioners' registration, under the order of the Judicial Officer, is for six months, and, particularly in view of the prior violations by the petitioners, it is manifestly within the authorization of the Act. The remedial or deterrent effect of this regulatory authority would be devitalized if repeated violations, as in the case at bar, were not subjected to effective sanctions.

In any event, however, the administrative decision as to the remedy should be sustained unless the remedy selected has no reasonable relation to the unlawful practices found to exist. *Federal Trade Comm.* v. *National Lead Co.*, 352 U. S. 419, 429; *American Power Co.* v. *Securities and Exchange Commission*, 329 U. S. 90, 112-118; *Phelps Dodge Corp.* v. *Labor Board*, 313 U. S. 177, 194; *Labor Bd.* v. *Link-Belt Co.*, 311 U. S. 584, 600; *Carter Products, Inc.* v. *Federal Trade Commission*, 268 F. 2d 461, 494-495 (C. A. 9), certiorari denied, 361 U. S. 884; *G. H. Miller & Company* v. *United States*, 260 F. 2d 286, 295-305 (C. A. 7), certiorari denied, 359 U. S. 907; *Daniels* v. *United States*, 242 F. 2d 39, 42 (C.A. 7), certiorari denied, 354 U.S. 939; *Great Western Food Distributors* v. *Brannan*, 201 F. 2d 476, 484 (C.A. 7), certiorari denied, 345 U.S. 997; *In re Electric Power & Light Corp.*, 176 F. 2d 687, 692 (C.A. 2); *Irving Weis & Co.* v. *Brannan*, 171 F. 2d 232, 235 (C.A. 2); *American Chain & Cable Co.* v. *Federal Trade Com'n.*, 142 F. 2d 909, 911, fn. 1 (C.A. 4); *Wright* v. *Securities and Exchange Commission*, 112 F. 2d 89, 95 (C.A. 2); *Midwest Farmers* v. *United States*, 64 F. Supp. 91, 101-102 (3-Judge Court, D. Minn.).[18]

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[18] If an administrative sanction is illegal, a court has no jurisdiction to substitute its judgment for that of the administrative agency with respect to the appropriate sanction. The "function of the reviewing court ends when an error of law is laid bare. At that point the matter once more goes to the * * * [agency] for reconsideration." *Federal Power Commission* v. *Idaho Power Co.*, 344 U. S. 17, 20. Specifically, the power "to affirm, modify, or set aside" the order of an administrative agency "is not power to exercise an

See also, *Federal Trade Comm.* v. *Mandel Brothers*, 359 U.S. 385, 392-393; *Moog Industries, Inc.* v. *Federal Trade Comm.*, 355 U.S. 411, 413.

It is contended, however, by the petitioners in their brief, pp. 21-23, that the part of the order of the Judicial Officer which suspends the registration of the petitioners is contrary to the requirements in § 9(b) of the Administrative Procedure Act (5 U.S.C. § 1008(b)). The statutory provision relied on by the petitioners is that:

> "Except in cases of wilfullness * * * no withdrawal, suspension, revocation, or annulment of any license shall be lawful unless, prior to the institution of agency proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee by the agency in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements." 5 U.S.C. § 1008(b).

In a prior administrative proceeding in 1951, the Judicial Officer ordered the petitioners to cease and desist from unlawful practices of the character in the case at bar (JA 84, 101). Thus § 9(b) of the Administrative Procedure Act has been complied with. Further, the violations by the petitioners in the case at bar were also found to be "wilful" in the findings of fact by the Judicial Officer (JA 103). As we have shown, *supra*, pp. 22-40, substantial evidence, on the record as a whole, supports these findings.

In any event, the petitioners' contentions do not, as a matter of law, negate "wilfullness" within the meaning of

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essentially administraive function" (*id.* at 21). See also, *Scripps-Howard Radio* v. *Federal Communications Commission*, 316 U. S. 4, 10; *Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 145; *Radio Comm'n* v. *Nelson Bros. Co.*, 289 U. S. 266, 274-278; *Radio Comm.* v. *General Electric Co.*, 281 U. S. 464, 466-470; *Keller* v. *Potomac Elec. Co.*, 261 U. S. 428, 440-444; *G. H. Miller & Company* v. *United States*, 260 F. 2d 286, 295-305 (C. A. 7), certiorari denied, 359 U. S. 907; *Crolley* v. *Tatton*, 249 F. 2d 908, 911-912 (C. A. 5), certiorari denied, 356 U. S. 966.

the Administrative Procedure Act. The issue as to the meaning of the term "wilful," in § 9(b) of the Administrative Procedure Act, was squarely presented in *Eastern Produce Company* v. *Benson*, 278 F. 2d 606, 609 (C. A. 3), and the Court held that it could not "subscribe to the proposition that the test of wilfullness in this context is to be evil purpose or criminal intent, for this is not a criminal statute" (*id.* at 609). The *Eastern Produce Company* case relates to the suspension of a license under the Perishable Agricultural Commodities Act (7 U. S. C. § 499a), and the issue of wilfullness in that case, as in the case at bar, is based solely on § 9(b) of the Administrative Procedure Act, inasmuch as the Perishable Agricultural Commodities Act and the Packers and Stockyards Act do not include wilfullness as an element of the offense. It was held in *Goodman* v. *Benson*, 286 F. 2d 896, 900 (C.A. 7), that a case of wilfullness is not within § 9(b) of the Administrative Procedure Act, and that if a person "intentionally does an act which is prohibited, irrespective of evil motive or reliance on erroneous advice," or "acts with careless disregard of statutory requirements the violation is wilful."

The violations by the petitioners were intentional and, manifestly, wilful in fact and in law. There is nothing to the contrary. The order by the Judicial Officer is plain and definite. Its terms are authorized by the record and by the relevant statutory provisions.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the findings of fact by the Judicial Officer are adequately supported by the evidence, that his conclusions have a rational basis in fact and in law, and that the order before the Court for review should, therefore, be affirmed.

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APPENDIX A

The following are the relevant provisions of the Packers and Stockyards Act, 1921 (42 Stat. 159, as amended, 7 U. S. C. 1952 ed. § 181 *et seq.*):

PACKERS AND STOCKYARDS ACT

Sec. 301. When used in this Act—

* * * * *

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser. (7 U. S. C. 1952 ed. §§ 201(c), 201(d)).

Sec. 302. (a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passageways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition. (7 U. S. C. 1952 ed. § 202).

Sec. 303. After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyard services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States. (7 U. S. C. 1952 ed. § 203).

* * * * *

Sec. 312. (a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. (7 U. S. C. 1952 ed. § 213).

7 U. S. C. 1952 ed. § 204. Hereafter the Secretary may require reasonable bonds from every market agency and dealer, under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction.

Sec. 314. (a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 310, 311, or 312 shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States. (7 U. S. C. 1952 ed. § 215(a)).

* * * * *

Sec. 401. Every packer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both. (7 U. S. C. 1952 ed. § 221).

Sec. 402. For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States. (7 U. S. C. 1952 ed. §222).

Sec. 403. When construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person. (7 U. S. C. 1952 ed. § 223).

* * * * *

Section 10 of the Federal Trade Commission Act incorporated by reference in § 402 of the Packers and Stockyards Act:

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the Commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment. (15 U. S. C. 1952 ed. § 50).

APPENDIX B

The following are the relevant provisions of the administrative regulations (9 CFR § 201.1 *et seq.*):

> Sec. 201.46 *Stockyard owners, registrants, and licensees to keep daily record.* (a) Each stockyard owner, in addition to other necessary records, shall make and keep an accurate record of the number of head of each class of livestock received, shipped, or disposed of locally each day. Each registrant buying or selling livestock on a commission basis or otherwise, except packer buyers registered as dealers to purchase livestock for slaughter only, in addition to other necessary records, shall make and keep an accurate record of the number and weight of livestock bought, sold, or otherwise disposed of each business day, the prices paid or received therefor, and the charges made for services. (9 CFR § 201.46(a)).
>
> Sec. 201.55 *Purchases and sales to be made on actual weights.* When livestock or live poultry is bought or sold on a weight basis in transactions subject to the provisions of the act, settlement therefor shall be on the basis of the weight shown on the scale ticket or correction ticket, as the case may be. Any weight figures shown on accounts of sale, accounts of purchase, invoices, bills, or statements issued in connection with transactions subject to the act shall be actual weights obtained on stockyard scales, in the case of livestock, or on scales operated by licensees, in the case of live poultry, at the place and at the time of the consummation of the transactions in question or, if not, shall be appropriately explained on the accountings, bills, or statements issued. (9 CFR § 201.55).
>
> Sec. 201.95 *Inspection of records and property of packers, stockyard owners, registrants, and licensees.* Each packer, stockyard owner, registrant, and licensee shall, upon proper request during ordinary business hours, permit authorized representatives of the Secre-

tary to enter the place of business and examine records requested pertaining to the business of the packer, stockyard owner, registrant, or licensee as such, and to make copies thereof, and inspect such property of persons subject to the act as is necessary to carry out the provisions of the act and the regulations in this part. Any necessary facilities for such examination of records and inspection of property shall be extended to authorized representatives of the Secretary by the packer, stockyard owner, registrant, or licensee, his agents and employees. (9 CFR § 201.95).

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